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THE CASE

OF

PUERTO RICO

J. J. Henna,
M. Zeno Gandia,
Commissioners from Puerto Rico.

JUNE, 1899

WASHINGTON, D. C.
PRESS OF W. F. ROBERTS
1899

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INTRODUCTORY.

Puerto Rico finds itself at this moment in an extraordinary situation.

The island is *de facto* by virtue of actual occupation, and *de jure* by virtue of the Treaty of Peace between the United States and Spain concluded at Paris on December 10th, 1898, an integral part of the territory of the United States of America. And, nevertheless, neither its soil, nor its ports, its commerce, its inhabitants, are for any practical purpose considered American. The flag of the United States of America floats over the soil of Puerto Rico, but it does not make American even the children who are born under its shade. Ships coming from the ports of any continental portion of the United States of America and entering a port of Puerto Rico do not enter an American but a foreign port, and are subject to pay custom duties, tonnage dues, etc. The commerce of Puerto Rico with the rest of the United States of America instead of being free as the commerce between Massachusetts and Florida, or New York and Louisiana, is burdened by a Tariff, heavier and more obnoxious than that which was in force when Puerto Rico was Spanish, and its commerce was subject to the reciprocity arrangements, which, under the inspiration of Mr. Blaine, were concluded in 1890 between the United States and Spain. And although Puerto Rico is American, and its goverment is vested in American officials, and all there is American, from the governor-general to the health officer of the humblest port of the island, no protection is given to any Puerto Rican except upon condition that it be carefully expressed that he is protected as a native of Puerto Rico but not as an American.

Of liberty and self-government the Puerto Rican people have not had as yet any taste. They are subject in all things to the

supreme will of a military governor, subject to no one else, though in time of peace, than the Commander-in-chief of the Army of the United States, through exclusively the channels of the War Department.

Between General Macías and General Henry no difference has been shown so far, than that the latter speaks a language which the Puerto Ricans do not understand, and that the former never ordered any graves to be dug to be filled with Puerto Rican corpses, when trouble was anticipated.

If the war which the United States of America waged against Spain for purely humanitarian purposes, freed Puerto Rico, as it is said, the Puerto Rican people do not know as yet of what that freedom consists. They are treated as an inferior, dependent people, needing to be educated and christianized and civilized—and in the procession of the Peace Jubilee celebrated with great pomp at Washington, which the President reviewed surrounded by his Cabinet and the diplomatic body and the elite of the Washington society, no other symbol was made to appear to represent Puerto Rico and Puerto Rican civilization than a dilapidated little negro boy poorly riding on the back of a not less dilapidated little pony, with the announcement, which excited the joyous shouts of the multitude, of "Puerto Rican Express."

This is the recognition which Puerto Rico has secured for having opened its arms and offered no resistance to the American invaders!

If Puerto Rico is not now a jewel belonging to the Crown of Spain, as it was often said during four centuries, the satisfaction to be derived from this fact is nothing but theoretical.

Puerto Rico can now say with Tacitus that it is rather without a master than in the enjoyment of liberty—*magis sine domino quam in libertate.*

It may also repeat with the Prophet of the Lamentations: "Our inheritance is turned to aliens, our homes to strangers; we are become orphans without a father. * * * We have

given our hand to Egypt and to the Assyrians that we might be satisfied with bread!"

The spectacle of a purely military government under the flag of the United States of America does seem very strange. And nevertheless it has been given for about nine months, and no prospect of relief seems to be in sight.

History has repeated itself, and if it was always said with reason that the Spanish Viceroys and Captains-General in America were all-powerful for the evil and powerless for the good, the very same thing can be said of Puerto Rico under the military control of the freest country in the world.

This attitude of the American Government with regard to Puerto Rico and the Puerto Rican people, if compared with the one it has taken with regard to the Philippine Islands and their people, shows a lack of consideration and justice thoroughly unexpected and unpardonable. The Filipinos are in arms against the United States; they are ignoring the cession which Spain made of their country in favor of the United States; they are resisting, *unguibus et dentibus*, to the best of their power and ability, the authority of the United States; and nevertheless they are offered by the United States a civil government and many other things which when asked by the Puerto Ricans find no response, or are met with the frivolous, groundless, answer that the President has no power to grant them; and the spectacle is thus given that there are two standards of weight and measures, one to be used with the Filipinos and another with the Puerto Ricans.

If a civil governor general and an advisory council, and many other things can be given the Filipinos, rightfully, why is it that the same thing cannot be rightfully given the Puerto Ricans?

Since when has it been the rule in this country, the best Republic in the world, that in order to obtain justice violence and bloodshed are first to be resorted to?

The condition of things in Puerto Rico when the Govern-

ment of the United States of America decided to go to war with Spain, to enforce the mandate of Congress that Spain should relinquish at once her sovereignty over Cuba, was by far different from the condition of things which then prevailed in the latter island.

Puerto Rico had never been afflicted as Cuba by war or revolution. Mr. Cushing, United States minister at Madrid, could say with reason to Mr. Fish, Secretary of State, on March 1, 1876, "Puerto Rico is a contented possession of Spain, having received concessions withheld from Cuba, which had been the scene of war for seven years." (Ex. Doc., Senate No. 166, Fifty-fourth Congress, first session, attached to Senate Report No. 885, Fifty-fifth Congress, second session, page 105.) Subsequent to Mr. Cushing's statement Puerto Rico continued in peace and its wealth and prosperity, specially in the time in which the reciprocity arrangements initiated and carried on by Mr. Blaine were in force, became phenomenal.

Puerto Rico was not by any means a proper subject for American intervention. If war was carried to its territory by the United States, it was because Puerto Rico was Spanish territory, and because it was said that for military reasons hostilities were necessary both in the Greater and the Lesser Antilles. And if Puerto Rico was ceded by Spain to the United States, not entirely without protest by Spain, it was only because President McKinley "desirous of exhibiting signal generosity to Spain," relieved her from paying any war indemnity to the United States, but demanded in exchange the cession. (Mr. Day to Duke of Almodovar del Río, July 30, 1898.)

Through that act of signal generosity of President McKinley, resembling that of Eneas when killing young Lausus, Puerto Rico became an American possession.

The voice of Puerto Rico was not heard. The idea that the Puerto Rican people might have something to say on the subject, or that a bargain of this kind, no matter how generous on the part of one belligerent, might need at least *pro*

forma the consent of the Puerto Rican people, was not even thought of.

The island and its people were conveyed from one sovereign to another as a farm and its cattle are conveyed from a master to another.

When France was forced to cede Alsace and Lorraine to Germany, without consulting their people, the potent voice of CHARLES SUMNER was heard in protest. He delivered in Boston his famous lecture, called by him "The Duel Between France and Germany." And then he said:

"France cannot sell or transfer them (Alsace and Lorraine) against their consent. Count the great masters and you will find their concurrent authority. Grotius, from whom on such a question there can be no appeal, adjudges: 'In the alienation of part of a sovereignty it is required that the part to be alienated consent to the act.' Of the same opinion is Puffendorff, declaring: * * * 'to make such a conveyance valid the consent of the people is required.' Vattel crowns this testimony when he adds that a province 'abandoned and dismembered is not obliged to receive the new master attempted to be given it. * * * Before such texts, stronger than a fortress, the soldiers of Germany must halt."

Take from there the words Alsace and Lorraine and Germany and replace them by Puerto Rico and the United States, and the case of Puerto Rico is made by perhaps the highest figure as a scholar, as a statesman, and as a patriot in the Republican party of the United States of America.

This pamphlet is intended not to make opposition to the Government, but to aid it in doing justice to Puerto Rico. It has for its object to formulate in a precise manner the aspirations of Puerto Rico. It has been prepared to show to the people of the United States of America and of the whole world that the Puerto Rican people do not submit in silence to be treated as slaves or as dependent beings little less than savages, needing protection from outside and entitled to nothing else than guardianship by the sword.

The signers of the Declaration of Independence of the United States said on July 4, 1776, that they held "these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among them are life, liberty and the pursuit of happiness;" and they added that "to secure these rights governments are instituted," and that these governments only derive "their just powers FROM THE CONSENT OF THE GOVERNED."

The Puerto Rican people, in asking from the people to whom they have been aggregated that the principles of the first enactment to be found in their statute books be applied to them, are not looking for favors. They are demanding justice.

June, 1899.

THE PUERTO RICAN COMMISSIONERS

TO

PRESIDENT McKINLEY.

FIRST LETTER.

To His Excellency William McKinley,
President of the United States,
Executive Mansion, Washington, D. C.

Mr. President:

We have the honor to appear before Your Excellency as bearers of a message of greeting from the people of Puerto Rico, and also as their spokesmen on a subject of great moment and solicitude on which their future welfare and happiness depends. But before broaching the question we beg leave to recall a chapter in the history of this unparalleled war of redemption, which we understand was undertaken in the name of humanity and for humanity's sake. We refer to the hearty reception, moral support and efficient aid, tendered the United States Army of invasion by our people.

The pioneers of the invading forces had scarcely landed on our shores when they became aware of and extremely impressed by the heartfelt welcome of the Puerto Rican people. The meaning of this was not simply ephemeral enthusiasm; it meant that Your Excellency's preannounced design had already been imparted to us. And because it conveyed the assurance that no other object but the one announced and which was subsequently reasserted by General Miles in his proclamation on entering the City of Ponce, *i. e.*, "our redemption from the tyrannical misrule of Spain," did we secretly decide and agree to lay aside whatever plans might have been prepared against our oppressors and to rally instead under the standard of our redeemers. We contributed by every means at our command to further the immediate expulsion of the tyrant from our land, our people in many instances joining the regimental ranks in various capacities. To this general rally of our compatriots, the complete isolation of the Spanish soldiery,

the quick and successive victories of the American Army and the avoidance of unnecessary bloodshed were due in a large measure.

The raising of the American flag over the Government Palace in San Juan on October 18th, 1898, proclaimed to the world that the crusade had fulfilled its purpose; that the enslaved people had been liberated and raised to the category of freedom; that we stood on an equal footing with the American people as fellowmen and brethren; and that the soldiery rested on their weapons and held out the olive branch of Peace, their holy mission having there and then terminated. Spain was thus vanquished, and Puerto Rico redeemed from her oppressors, in the name of humanity and for humanity's sake.

Pending the decision of Congress as to the ultimate form of government which will be applied to our Island, a question on which our people expect to be consulted, we come to lay before Your Excellency a plan of reforms which has become of such imperative necessity as to require its immediate establishment. If these reforms are not promptly established we are prone to fall into irretrievable ruin.

We ask for:

1st. The appointment of a Civil Secretary.

2nd. An elective Council of fourteen members representing the Island: two for each of the different departments, with power to legislate on insular affairs and with fiscal action on the general administration, subject to the suspensive veto of the Governor-General; thus doing away with the so-called Council of Secretaries.

3rd. Absolute Autonomy of the Municipal bodies, with no other limitations than those legal ones imposed by the Courts of Justice.

4th. Application to the Island of the law of personal and civil rights as contained in paragraphs 2 to 7 in section 9, Article 1st of the Constitution of the United States.

5th. Application to the Island of the Amendments 1 to 10 of the same Constitution.

6th. Free trade with the United States.

7th. Reduction of the military garrison by one-half and the admission in its ranks of native volunteers.

8th. Establishment of a Postal-Telegraph system.

9th. Establishment of Postal Savings Banks.
10th. Two cent postage with the United States.
11th. Immediate redemption of the currency at such a rate as will best accord with the just and fair interests of both countries.
12th. The extension to the Island of the Federal Banking laws.
13th. The extension of the Copyright law.
14th. The establishment and adjustment of the census of assessed property.
15th. The establishment in the Island of a depository for Public Records, wherein all the historical documents at present scattered throughout the Island, pertaining to the discovery and colonization of Puerto Rico, as well as copies and original records of the Spanish archives relating to the Island, which according to article 8 of the Treaty of Peace Spain is to deliver unto the United States, may be preserved.

Respectfully submitted by the Puerto Rican Commissioners.

EUGENIO M. HOSTOS. J. JULIO HENNA. M. ZENO GANDIA.

Washington, D. C.,
Enero 20, 1899.

THE PUERTO RICAN COMMISSIONERS

TO

PRESIDENT McKINLEY.

SECOND LETTER.

To His Excellency William McKinley,
President of the United States of America,
Executive Mansion, Washington, D. C.

Sir:

The undersigned, natives of the Island of Puerto Rico, who as Commissioners for the people of that Island, formerly have had the honor to call your attention to certain needs of that people, take advantage of the opportunity afforded to them by your proclamation of the 11th instant, and come again before you, both to offer to you personally and to the noble people over whom you preside, their earnest and most sincere congratulations for the re-establishment of the state of peace between this country and Spain, and to acquaint you with certain views and wishes of the people to whom they belong and whom they have the honor to represent, which under the present circumstances are thought to require favorable and immediate consideration.

Under the provisions of the Treaty of Peace, which you have just proclaimed and has thereby become the supreme law of the land, the Island of Puerto Rico, which has an area of about three thousand five hundred square miles, and a population of nearly one million inhabitants, has been added to the national domain of the United States. This addition has been made, as if it were a mere conveyance of real estate, without consulting in the least the wishes of the people of the Island, and contrary to all precedents, without providing either for the "political status" of the same inhabitants, the determination of which is left to the good will of the Congress of the United States of America; and the cession by Spain to the United States of America of her sovereign rights, whether forfeited or not, over

the land and the people of Puerto Pico, is for the moment practically consummated.

Under such circumstances, neither the President of the United States, nor the American people, may ever object to the Puerto Rican people, a noble, manly, highly educated people of the Caucasian race, feeling apprehensive about the situation in which they have been left by the Treaty, and hastening to come before you in search of that relief to which under all considerations of justice they are certainly entitled.

Prior to the proclamation of the Treaty of Peace and the final acceptance by the United States of America of the conveyance made to them by Spain, no action, however just in principle or intrinsically meritorious, could have properly escaped from being called premature. The military occupation of Puerto Rico by the United States of America was an act of war, and as such belonging to a sphere where considerations of law or reason are left in the background. *Inter arma silent leges.* But now that the condition of war has ceased, and that a perfect state of peace exists in Puerto Rico, *de jure* as well as *de facto*, the moment has arrived for the Puerto Rican people to give expression to their wishes.

If there was any reason, no matter how strange or unaccountable, not to embrace Puerto Rico in the declaration made by Congress in section first of the Act approved by you on April 20, 1898, that the people of Cuba are and of right ought to be free and independent, that reason could not go as far as to declare that the Puerto Rican people are and ought of right to be deprived of the inalienable rights, including liberty, life and the pursuit of happiness, with which the Creator endowed all men.

The relief to which the undersigned have referred consists of the following:

FIRST.

That you may be pleased to cause the condition and rules of civil government to prevail in Puerto Rico, as they prevail everywhere else in time of peace in the United States of America; and in consequence thereof that the War Department should cease to take cognizance of any thing or matter relating to the administration of the government of Puerto Rico, and confine its action exclusively to those things and matters which pertain to the army.

The obviousness of this measure is such as to preclude the necessity of any argument in support thereof. Now, under the existing conditions of perfect peace, the authority of the

United States of America over the Island of Puerto Rico is simply civil, and cannot be exercised, in civil matters, under the laws of the United States, through military channels.

SECOND.

That you may be pleased to direct, as a further consequence of the above, that all matters relating to the administration of the government of the island of Puerto Rico, as far as the action of the United States Government is or may be concerned, be transferred to that Department of the Government of the United States to which they may rightly belong. Business concerning customs, the currency, the national banking system, etc., etc., must be transacted through the Treasury Department. Those relating to the United States courts and judicial officers must be transacted through the Department of Justice. Matters concerning patents, trade-marks, copyrights, public lands, etc., etc., must belong to the Department of the Interior. National promotion of agriculture is a matter which pertains to the Department of Agriculture. Postal service and all things relating to or connected with it must rightly fall under the jurisdiction of the Postmaster-General of the United States.

THIRD.

That you may be pleased to cause the army of the United States in Puerto Rico to be reduced to such numbers as are strictly necessary to garrison the forts and military posts of the United States in the said islands.

It would be just, as well as eminently useful politically, to continue and encourage the idea already put in operation, with notable success, of inviting Puerto Ricans to join the army of the United States. This was requested from you by the undersigned Commissioners on the 20th of January ultimo, and was granted by you, to the great satisfaction of the Puerto Rican people.

FOURTH.

That you may be pleased, in anticipation of any action of Congress, under Article XI of the treaty of peace, on the political status of the native inhabitants of Puerto Rico, to order the latter to be considered at once, for all purposes and effects, citizens of the United States of America, entitled to all the rights secured to such citizens under the Constitution and the laws of the United States.

FIFTH.

That you may be pleased, in further recognition of the state of peace and of the right of self government inalienably vested in the Puerto Rican people, to cause said government to be exercised by the people themselves, as it is done in all the States, Territories, and possessions of the United States of America. Such government, as far as the executive portion thereof is concerned, might be kept temporarily in the same form and manner as the present government of the District of Columbia, which is vested in three commissioners, with all the officials necessary for the transaction of official business. The Territorial form of government, in which the executive authority is vested in a civil governor, assisted by a secretary and all other necessary officials, would be equally acceptable. The said board of commissioners or civil governor, as the case may be, should communicate directly with the President of the United States.

SIXTH.

That you may be pleased to direct the government of the Island of Puerto Rico, as far as the legislative branch thereof is concerned, to be vested in a council consisting of fifteen members, two for each one of the seven departments of the Island and one for the City of San Juan. The election of these councilmen, except the one representing San Juan, shall be made, temporarily, until a census of the inhabitants of the Island of Puerto Rico is taken, and universal suffrage is established as everywhere else in the United States, by an electoral college, consisting of one member for each municipal corporation, or ayuntamiento, within the limits of each department, chosen by a majority of votes out of the members of the same corporation. These electors shall meet at the chief town of the respective departments and by majority of vote shall chose the two persons who are to represent the latter in the legislative council; but no person shall be elected to fill the latter position who is not a Puerto Rican and has not resided in the department at least for two years immediately preceding the election. The legislative council shall take no action in matters which properly belong to the jurisdiction of the United States, and their determination shall be in all cases subject to the veto of the board of commissioners or the civil governor, as the case may be.

SEVENTH.

That you may be pleased to order a census to be taken at once in Puerto Rico, exactly on the same plan as this is done in the United States, so as to enable Congress, when convening next winter, to decide with official figures whether Puerto Rico is to be organized as a Territory, admitted as a State of the American Union, or disposed of in any other way.

EIGHTH.

That you may be pleased to order, in compliance with the provisions of the Constitution of the United States, that the trade between the Island of Puerto Rico and the United States of America be absolutely free; that it be regulated exactly in the same manner as the Interstate Commerce is in the United States; and that the Customs Laws in force in Puerto Rico be only applicable to the trade and commerce between Puerto Rico and all the nations in the world which are not the United States.

Respectfully submitted by the Puerto Rican Commissioners to Washington.

MANUEL ZENO GANDIA. J. JULIO HENNA.

Washington, D. C.,
April 19th, 1899.

THE PUERTO RICAN COMMISSIONERS

TO

PRESIDENT McKINLEY.

THIRD LETTER.

No. 8 West 40th St., New York, May 5, 1899.

To His Excellency Wm. McKinley,
President of the United States of America.

Mr. President :

The undersigned, J. Julio Henna and Manuel Zeno Gandia, Puerto Rican Commissioners, who on the 19th of April had the honor of conferring with you on matters relating to their country, and recommended the adoption of eight measures which independently of their intrinsic justice are urgently required in Puerto Rico, come before you again in the discharge of their duties, and submit the following considerations :

I.

That in their urging and insisting upon the cessation of military rule in Puerto Rico, and the establishment in that beautiful and highly-civilized country of a system of civil government, in the manner set forth in the first, second, fifth and sixth measures of relief recommended by them, they did not mean, nor do they mean now, to criticise the administration of the military government, to which Puerto Rico is now submitted against the will of its inhabitants, or the military officers in whom the said government is vested, or implicate any doubt as to the honesty of the views and purposes of the officers of the United States Army, upon whom all things in Puerto Rico from the superior government of the Island to the management of the poorest Puerto Rican Custom House absolutely depend at present.

The Commissioners' objection to military rule in the country wherein they were born, and whose interests, whether material or moral, they have so much at heart, consists exclusively in the intrinsic injustice of the system and its degrading and demoralizing effects upon the noble people they have the honor to represent.

Army officers when taken out of their own proper sphere of

action and transferred from the destructive to the constructive side of public business, may prove to be excellent rulers, especially in those cases which are surrounded with difficulties, when the temptation is felt to cut the Gordian knots rather than loosen them. But the system which puts the power in their hands, even if they are geniuses as great as Alexander or Cæsar, is, under the American point of view, bad and detestable.

The Puerto Rican Commissioners are advised, and they have no difficulty in believing, it being perfectly in keeping with the American ideas, that the Supreme Court of the United States, through the organ of its great Chief Justice, Mr. Marshall, expressly declared that the Government of the United States is a government of laws and not of men ; and that, therefore, a system whose first and most natural effect is to silence law, *inter arma silent leges*, is already condemned, at least in times of peace, by that court, which is not only the highest in the land, but the constitutional moderator of excesses of power by both the executive and the legislative departments of the Federal Government.

The charge was made against Spain in 1874, under President Grant's administration, and made with peculiar cogency, in justification of the Cuban war of independence which was then raging, that the government which Spain had devised for the Island, subsequently to the uprising of Mexico and South America, was a military government from the highest to the humblest place in the scale. President Grant was a soldier, and as a soldier had achieved the celebrity which placed him in the Presidential chair, which is now occupied by Your Excellency ; but he knew well that by supressing self-government and holding thus intelligent and educated men under military control, their inalienable rights would be ignored, noble and lawful aspirations curbed, and seeds of legitimate discontentment and distrust profusely sown.

It has been clear for a long period of time to many reflecting minds, both in the United States of America and in the Spanish-speaking countries of the Western Hemisphere that the incorporation of these countries, more or less gradually, into the American Union was as inevitable as it is for an apple to fall to the ground when its connection with the tree is severed by the force of the storm.

Your predecessor, Mr. Jefferson, had at such an early date as the 27th of April, 1809, exactly ninety years ago, expressed himself earnestly in favor of what he called "expansion of the empire of liberty" on the side of Cuba, and presumably of

Puerto Rico also; and the Senate Committee on Foreign Relations of the 35th Congress, consisting of great men, whose names are illustrious in American history, emphatically declared that "the law of our national existence is growth," and that in the same way as England had the right "to pursue her march of conquest and emancipation in India," France "to extend her dominions on the southern shores of the Mediterranean," or Russia "to subjugate her barbarous neighbors in Asia," so the United States had the right of "claiming in this hemisphere the same privileges that they (England, France, and Russia) exercise in the other."

But neither Mr. Jefferson nor the Senate Committee on Foreign Relations of the 35th Congress, nor any partisan, however enthusiastic, of annexation and expansion, ever came to the extreme of wishing to follow the example of Russia in Poland in the New World.

The idea of peace as happily stigmatized by Tacitus when he said *solitudinem faciunt pacem appellant* is not by any means an American idea.

Mr. Jefferson wanted to have these countries incorporated into the Union, not to subjugate them, but to give them a place in "the empire of liberty." "Such an empire," he said, "as she (Liberty) has never surveyed since the creation," as "no constitution was ever before so well calculated as ours for extensive empire and self-government." And the Committee on Foreign Relations of the Senate of the 35th Congress did not fail to couple their declarations above quoted with the significant statement that "if it were true that the inhabitants of Cuba did not desire a transfer of their territory to the United States, that fact would "present a very serious objection to the measure."

If the fortunes of a war waged exclusively for the humanitarian purpose of freeing Cuba from bondage and raising her to the position of a free and independent commonwealth caused Puerto Rico to fall into the hands of the United States as an indemnity for the expenses of the military operations and for the payment of certain claims which are not as yet liquidated, that transfer, which realizes to a certain extent the aspirations of Mr. Jefferson and of the Senate Committee on Foreign Relations of the 35th Congress, cannot certainly constitute under the flag and the laws of the United States of America an expansion of military empire and purely military colonial domination, repugnant to the wishes of the people of the island and to the principles upon which the whole fabric of the Government of the United States firmly rests.

Practices of this nature may find justification, if the word justification may be aptly applied even in this case, when the conquering country has to deal with savage races; but the Puerto Rican people have not as yet been able to discover, either ethnically, or in the constitution of their minds, or in any aspect whatever of what is called civilization, that they are inferior to any other people of the world and need a military guardian to teach them what self-government means.

The Puerto Rican people fully appreciate, and are thankful for it, the spirit of kindness and of righteousness which has been shown by you at all times, since the acquisition of Puerto Rico by the United States, in your desire to do good to their country and become acquainted with their wishes and their necessities. But the suggestion is made respectfully that the subject of reforming, if reform is needed, the Puerto Rican system of municipal law, the Puerto Rican constitution of the family, the Puerto Rican plans of education, or any other Puerto Rican things in general, does not properly belong to the army officers who now control Puerto Rico, or to the War Department, from which they derive their authority, but to the Puerto Rican people themselves.

The chief error of Spain in its colonial policy subsequent to 1825 was attempting to rule Cuba and Puerto Rico through military authorities and upon their reports.

The Puerto Rican Commissioners do not understand that the americanization of Puerto Rico, so earnestly advocated by American newspapers and other American agencies, can be lawfully tortured into the enforced obliteration by American military hands of all things Puerto Rican, not *quia* bad in themselves, but *quia* Puerto Rican.

It is in the order of nature as well as in harmony with the teachings of political science and the true principles of democracy that no paternalism in any way whatever, whether military or civil, should be exercised in Puerto Rico. The Puerto Rican people have not lost, by becoming through the fate of war a portion of the American territory, the right of self-government, which your predecessor, Mr. Cleveland, urged the Spanish Government to recognize in full.

Mr. Cleveland did not venture any novel or hazardous doctrine when he said in his last measure to Congress that by means of a full measure of autonomy "the prosperity of the Island (he referred to Cuba) and the future of its inhabitants would be put in control of the latter," with the additional advantage that an opportunity should thus be afforded to the same people to test their capacity for self government.

II.

That in regard to the third and seventh measures suggested to you on the 19th instant by the Puerto Rican Commissioners, they have nothing to say at present which is not a reiteration of their former arguments.

The reduction in numbers of the United States military establishment in Puerto Rico is not only just and in keeping with the spirit of the American institutions, but will facilitate the unification of Puerto Rico with the rest of the country to which it has been ceded.

The allowing Puerto Ricans to enlist in the military service of the United States, if so they want, will certainly contribute to that work of beneficent assimilation.

The taking of the census, as indicated in the seventh measure of relief suggested to you, seems to be the basis upon which all practical schemes of agricultural and industrial work, as well as of taxation, are necessarily to be founded.

III.

That in regard to the fourth suggested measure of relief, namely, that the native inhabitants of Puerto Rico be at once declared, for all purposes and effects, citizens of the United States of America, entitled to all the rights secured to such citizens under the Constitution and the laws of the United States, the Puerto Rican Commissioners cannot fail to point out the just and immense popularity which the measure, if adopted, will accrue to your name.

Four times in the history of the United States the territory of the latter has been enlarged by cessions made in their favor by other powers. But in none of these cases were the people of the countries thus ceded not taken into respectful consideration. The Louisianans had to be admitted as soon as possible to all the rights, advantages, and immunities of citizens of the United States. The Floridians were referred to exactly in the same language. The Mexicans of California and the other lands acquired by the United States in 1848 had to be citizens of the United States if they did not express their desire to continue to be Mexicans. The Alaskans, except the uncivilized tribes, had to be admitted to all the enjoyment of all the rights, advantages, and immunities of citizens of the United States, if they did not return to Russia. The uncivilized tribes had to be treated as the American Indians are.

But under Article IX, of the Treaty of Peace between the

United States and Spain, by which Puerto Rico was ceded to the American Union, the inhabitants born in the island are absolutely disfranchised. They have no civil rights. They have no political status. They are parias. They have no nationality. They have not even the right to choose one.

The Treaty says that the civil rights and political status of the native inhabitants of Puerto Rico shall be determined by Congress.

The Spaniards residing in Puerto Rico were more favored. They can either remain Spaniards or become American citizens. The native Puerto Ricans can do nothing. They are neither Spaniards nor Americans. If they want to travel and desire an American passport, the passport is refused to them, American rights and privileges are not within their reach. American liberty means to them nothing else than being ruled by an American General, and military control is to them the only exponent of law and social order.

This power is so unbounded, that under the Amended Custom Tariff promulgated by the War Department, if a question arises in custom matters, the decision of the American Collector of the Port of San Juan is to be final. No appeal can be taken against it.

There seems to be no doubt that Congress in its day will bring down these things to their proper level. The effort will be made, at least, with all that energy and earnestness which the consciousness of duty and the right of self-defence may warrant. But it seems to the undersigned Commissioners that such a strange and unjust disfranchisement of the Puerto Rican people can easily be removed by you.

A great writer of modern times has said that men are almost more jealous of preserving their dignity than of enforcing their rights; and if this be, as it is, true, throughout the whole world, it is more so, if possible, among those people who belong to that race which for the sake of convenience has been called "the Latin race."

There is no reason in the world for desiring between the Puerto Ricans and the American people, no matter how small the one and how gigantic the other, any feeling which is not of benevolence and good will.

IV.

That in regard to the eighth measure of relief, namely, the establishment of absolute free trade between Puerto Rico and the rest of the United States, and *vice versa*, the Puerto Rican

Commissioners deem themselves to be bound by their duty to earnestly represent to you the justice of that measure and the urgent extreme necessity that it be at once adopted.

Puerto Rico and the continental portion of the American Union, to which the former has been attached and into which it has been incorporated, are not foreign to each other. They are one and the same country; and although separated by the sea they are the same territory, politically, geographically, and in all other respects. The trade between them is coast-wise trade, and as such it has to be subject to and regulated by the wise provisions of the Constitution and the laws of the American Union. No tariff barrier can be raised, constitutionally, between the one and the other.

In addition to this lack of power on the part of the American Government to deal with Puerto Rico, commercially, after the promulgation of the state of peace, as if it were a foreign country, there is the extreme condition of destitution and poverty into which that unlawful situation has plunged the Puerto Rican people.

> "The people are miserably poor and there is stagnation in nearly every line of business. Before the war between the United States and Spain the principal markets for Puerto Rico were Cuba and Spain. Since the cession of Puerto Rico to this Government there is no longer any market for products either in Cuba or Spain, because they are barred out by import duties on sugar, coffee and other articles, where formerly no taxes were levied. If the United States Government does not authorize free trade between Puerto Rico and its ports, then the Puerto Rican planters and merchants will be ruined."

The principal exports of Puerto Rico are coffee, sugar, tobacco, and molasses. The value of these exports in United States currency in the year 1895 were:

Coffee	$8,789,788
Sugar	3,747,891
Tobacco	646,556
Molasses	517,746

If these articles, which are now American articles—as American as the Louisiana sugar and the Virginia tobacco are American—cannot come to the markets of the United States—that is to say, to their own natural domestic markets—without pay-

ing duties and seeing themselves subject to a ruinous competition, what will then have become of the wise provision of the Constitution of the United States which forbids the drawing custom lines between States and States or between Territories and States? And what benefit would have then been derived economically by the Puerto Rican people from the change of allegiance forced upon them by the necessity for the United States to pay certain claims of their citizens against Spain and to reimburse the expenses of a war waged to emancipate Cuba and make the Cuban people free and independent, and not to put in bondage the Puerto Rican people?

Strange as it may appear, the fact is that, economically, the Puerto Rican people were by far much better off under the Spanish rule in the days of your predecessor President Harrison than under the "Amended Customs Tariff and Regulations for Ports in Puerto Rico," promulgated by the War Department on January 20th, 1899.

Under President Harrison and the "reciprocal commercial arrangements" which were made with Spain in regard to Cuba and Puerto Rico—arrangements of such vital importance that their discontinuation was in reality the only cause which rendered the insurrection of 1895 possible in the island of Cuba—the commerce between Puerto Rico and the United States was exceedingly prosperous. Puerto Rico sent to the United States an immense percentage of its products and received in exchange from the United States, either free from duty or with very moderate duties, the majority of those articles which are most needed in the island.

American meat in brine or salted, for instance, was imported in Puerto Rico free from duty. Lard and fish and oysters in all forms and tallow were also admitted free. But now, under the Amended Customs Tariff promulgated by the War Department, the Puerto Rican people have to pay import duties for all these articles. They have to pay $1.25 per hundred kilograms of American meat in brine. The duty on lard is $1.70; on tallow, $1.70; on fish, oysters, etc., 50 cents or $1, according to circumstances.

American corn meal was imported in Puerto Rico without paying more than 25 cents for each one hundred kilograms. Now, under the Amended Customs Tariff, the duty is 30 cents.

In order to protect the Spanish wheat flour American flour paid then in Puerto Rico $1 per each one hundred kilograms. Now, when no Spanish industry is to be protected, the same duty is levied, to the detriment of the American miller and of the Puerto Rican consumer.

The comparison between the two systems could be carried in this very same way to considerable extent, and it certainly would prove that Mr. Harrison's ideas were, if not wiser intrinsically, much more favorable to the people both here and in Puerto Rico.

The situation in which Puerto Rico finds itself at present is neither just nor logical. Puerto Rico has done nothing to deserve to be forbidden admission to the American markets, or to be starved to death through high duties under the Amended Customs Tariff promulgated by the War Department.

If the Puerto Rican people can sell their products as they ought to in the United States, and if they can buy cheaply from the United States what they need to live on, who can doubt that the economical ties attaching them to the United States will grow quickly into firmer bonds of political attachment and love?

If there is anything better proven than all others in the history of the relations between Spain and Puerto Rico and Cuba, that thing is that economical errors have been the essential cause of all the troubles between the mother country and her colonies. The violation of the economical law brought with itself the dissolution of the political bond between Spain and her possessions.

In 1865 the Spanish Government, presided over at that time by Don Antonio Cánovas del Castillo, called to Madrid representatives from Cuba and Puerto Rico to answer interrogatories propounded to them regarding the question of slavery and the economical and political problems of the two islands. Some of the delegates were elected by the people, while some others were chosen by the government. All shades of opinion were represented at that gathering, and the answers which were given illustrated very plainly the aforesaid divergence. Some were in favor of the continuation of slavery, others proposed gradual emancipation, and still others (and they were the Puerto Rican delegates) demanded its immediate abolition, with or without indemnification. Some proposed certain political reforms; some others did not want any reform at all. But there was a point in which, to the astonishment of all, there was absolute unanimity. The conservative as well as the radical, the merchant as well as the planter, the soldier as well as the civilian, all agreed without exception to recommend the abolition of the Custom Houses in Puerto Rico and Cuba and the establishment of direct taxation under a plan they had devised and submitted for the support of the government.

Neither Cuba nor Puerto Rico will ever be able to make a

step in the road of true progress and happiness as long as a custom house stands upon their soil.

The argument has been made by well disposed persons conversant with the facts of the case that by placing Puerto Rico in its relations with the rest of the United States in the same conditions, as far as commerce and navigation are concerned, as under the constitution and the laws exists between any State or Territory of the American Union and the Union itself, a considerable reduction in the revenue of the United States would be at once experienced. But this reasoning loses its weight as soon as it is seen that under American ideas taxation is a means, not an end, and that in the eternal harmony of justice and true utility the just removal of the burdens which weigh upon the commerce between Puerto Rico and the rest of the United States will increase the production on the one and the other side, and create a compensation of better character and much more to be desired than money in the Treasury.

If levying taxes upon the imports and exports of Puerto Rico, besides being constitutionally wrong and contrary to law and principle, leads to the paralysis of Puerto Rican industry and commerce, and causes poverty and destitution to prevail in the Island, the sooner that it is discontinued the better it will be.

Hoping that you will be pleased to give favorable consideration to the just representations herein made, we have the honor to subscribe ourselves, with great respect,

Your most obedient servants,

J. Julio Henna, M. Zeno Gandia.

THE PUERTO RICAN COMMISSIONERS

TO

PRESIDENT McKINLEY.

FOURTH LETTER.

NEW YORK, *June 15, 1899.*

TO HIS EXCELLENCY WILLIAM MCKINLEY,
PRESIDENT OF THE UNITED STATES OF AMERICA.

SIR:

The undersigned Puerto Rican Commissioners, encouraged by the wise attitude which the Secretary of State of the United States of America, no doubt under your instructions, has taken in regard to the native people of Puerto Rico in his recent circular of instructions to diplomatic and consular officers of the United States throughout the world, come again before you, in the fulfillment of their duty, to ask that that attitude, plainly in anticipation of what Congress may do, be also taken, in the same way, as is just and practicable, in regard to all the other points embraced in their communications to you of January 20th, April 19th and May 5th of the present year.

The Secretary of State has ordered, with characteristic discretion and foresight, that native Puerto Ricans should be allowed to register their names in the United States legations and consulates throughout the whole world, and that the protection of the United States should be given to those who so registered in all matters where a citizen of the United States similarly situated would be entitled thereto, adding, however, that the said ambassadors and consuls must be careful to have it appear that the said native Puerto Ricans so registered and protected are admitted to registration and granted protection not as citizens of the United States, but as native inhabitants of Puerto Rico.

The reason of this distinction is to be found in the fact that the determination of the political status and civil rights of the native Puerto Ricans was, under an express provision of the treaty of Paris, left to Congress.

The State Department of the United States of America—center at all times, from the very first day of its establishment to the present moment, of wise and enlightened statesmanship—could not see any longer with apathetic indifference that the natives of a country over which the American flag has been floating for over nine months should be deprived of the right of protection, which is the counterpart and the condition of the duty of allegiance, until some future day in which the Congress of the United States might find time to occupy itself on this subject and pass some law providing something in regard to their political status.

A man is born in the middle of the ocean on board a ship which navigates under the flag of the United States, and that fact, though accidental and fortuitous, entitles the man thus born to the privileges of American citizenship and to the protection of the American Government. But a man is born in Puerto Rico, which is American territory and over which the American flag floats without opposition, and he is not American, neither was he entitled to any kind of American protection until the noble scholar and statesman, who now sits on the chair formerly occupied by Thomas Jefferson, Henry Clay, and others of their caliber, found out the manner of conciliating justice with the strict language of the treaty. How true it is that *scire leges non est ad eadem verba tenere, sed vim ac potestatem.*

While thanking you, Mr. President, and thanking also the learned and distinguished Mr. Hay for the benefit thus granted to the people born in Puerto Rico, we want to express our wish that you, through the same process and following the precedent so established, should grant to Puerto Rico, temporarily at least, what the Puerto Rican Commissioners have had the honor to ask you in their former communications.

There is no way to deny that a portion of the American territory cannot in time of peace be placed under the absolute control of the military branch of the Government. War and military rule are calamities, which have no justification unless in case of extreme necessity. As Dr. Warton says in his introduction to the diplomatic correspondence of the American revolution, war and military action are only transient incidents in diplomatic settlements, arguments like all others, to be used when required, but which must be withdrawn and shelved when peace has been established. *Homo homini lupus* is not, certainly, the ideal of Christian civilization.

There is no way to deny that Puerto Rico being American territory, its commerce is American, and that the trade be-

tween Puerto Rico and the continental United States ought to be as free as is the trade between New York and Louisiana or Texas and Massachusetts.

There is no way to deny that the enforcement in Puerto Rico of the Amended Customs Tariff of January 20th, 1899, and its numerous amendments, by which all the articles of immediate necessity, even meats, beans, potatoes, etc., etc. (articles all of them admitted free in Puerto Rico under the reciprocity arrangements of Mr. Blaine when Puerto Rico was Spanish) are heavily burdened, is injurious both to the people of the States and to the people of Puerto Rico.

There is no way to deny that the military authorities of Puerto Rico have no right to legislate on marriage, on divorce, on education, on civil or criminal law, and that these things must be left to the Puerto Rican people themselves. As Charles Sumner said with reason on a memorable occasion, the Anglo-Saxon and the Latin civilizations, although "most unlike, are yet the peer of each other;" and no man who does not close his eyes not to see the light, or who is not blinded by ignorance, can say that the Puerto Rican Codes of laws, civil and criminal, and the organization of the Puerto Rican family and the Puerto Rican holy horror for many things which Mr. Caleb Cushing stigmatized with his usual energy even in his opinions as Attorney-General of the United States, are inferior to others or indications of what is now called "a lower civilization." If the Puerto Rican civilization were in fact lower than the American civilization, the process for raising it up might with advantage be different from the Procrustean methods so far employed.

There is no way to deny that Puerto Rico, if placed, as it ought to be, under the full sway of American liberty, would become, as per enchantment, the happiest and the most prosperous country in the world, and that it would thereby contribute powerfully and efficiently by its example as an eloquent objective lesson to a prompt settlement of the difficulties which are now encountered in the rest of the new dominions of the American Union.

We are, Mr. President, with great respect, your obedient servants.

J. Julio Henna, M. Zeno Gandia.

EXPLANATORY NOTES.

Note No. 1.

ON THE NAME OF PUERTO RICO.

When Columbus, in his second voyage, after a cruise among the Caribbee Islands, discovered Puerto Rico, in November, 1493, he gave to it the name of San Juan Bautista.

The island was not explored until 1508, when Juan Ponce de León was sent there from Hayti, or Hispaniola, at the head of a reconnoitering expedition; and when these explorations were finished, in 1509, the command of the island was given to the explorer. As the latter was struck with admiration of a port on the northern coast, not only because of its beauty and its advantageous position, but because of its being the center, and no doubt the best outlet, of a district which was represented to him as being very rich, especially in gold, he distinguished that port from the others by the epithet of Rico, which in Spanish means "Rich." He was so enamored of it that he fixed his seat of government in a town, which he founded and called "Caparra," at scarcely three miles from it.

Through the importance of this "rich harbor," or *Puerto Rico*, as it is said in Spanish, it came to pass for the Island of San Juan to be described thereafter as "the Island of San Juan of the rich harbor," *San Juan del Puerto Rico*, or *San Juan de Puerto Rico*. The rich harbor being considered the geographical characteristic feature of the country, it became also, through a most natural evolution, the most appropriate distinctive to be used for purposes of description and identification.

A further evolution caused the essential part of the name to prevail, and all others were dropped. The Island was then

simply called *Puerto Rico*, and the people born in it were called *Puerto-riqueños*. By saying therefore "Porto Rico" and "Porto Ricans," an error of great bulk, philological, geographical, historical and grammatical, is committed. The hybrid phrase "Porto Rico," made out of a Portuguese substantive and a Spanish adjective, is as much an absurdity as "Newporto" instead of "Newport" might be.

In addition to what might be called the rational explanation of the subject, there is also the law.

By order of President Harrison, September 4, 1890, a "Board on Geographical Names" was constituted in Washington to secure "uniform usage in regard to geographic nomenclature and orthography," and the "decisions" of this Board were ordered to be "accepted by the Departments as the standard authority in such matters."

That Board published on May 25, 1891, a bulletin containing some sensible rules, one of which is as follows: That "geographic names in countries that use Roman characters should be rendered *in the form adopted by the country having jurisdiction*, except when there are English equivalents already fixed by use."

Under this rule we may say Marseilles instead of Marseille, Antwerp instead of Anvers, and Leghorn instead of Livorno, etc., etc., but we cannot say Porto Rico instead of Puerto Rico.

The military map of Puerto Rico, published in 1898, says: PUERTO RICO.

NOTE NO. 2.

ON THE LAWFULNESS OF THE REPRESENTATIVE CHARACTER OF THE PUERTO RICAN COMMISSIONERS.

The Washington *Evening Star*, in its edition of the 8th of May, 1899, wishing perhaps to undermine the position upon which the Puerto Rican Commissioners have stood and stand before the Government and the people of the United States of America, take away from them that prestige to which they are entitled, and injure through these methods the success of their efforts, although that success when achieved will certainly redound much more in honor of the United States of America than of Puerto Rico, who only asks what is just and right, filled about one column on its first page, under headings calculated to catch at once the eyes of the readers and poison their minds in advance, with several statements, all of them full of errors, about Puerto Rico, and the following charges and insinuations against the Puerto Rican Commissioners, to wit:

1. That they are "self-constituted Commissioners."

2. That "there is grave doubt in the mind of some of the officials here as to whether the so-called Commissioners from Puerto Rico represent the prevailing sentiment of the people of the island."

3. That "there also seems to be some uncertainty as to the source of appointment of the Commissions."

4. And that "at any rate, it is claimed the Commissions were not formed with the consent of a large body of the people."

The publication of these charges and insinuations jointly with some other utterances, erroneous in point of law not less than in point of fact, attributed to a member of the Puerto Rican Insular Commission, revealed at once the purpose, in this case a very unfair one, of putting the whole thing under the protection of a name belonging to official circles, *sub umbra magni nominis*, and so increase the bad effect sought to be produced on the readers,

In view of these facts, the Puerto Rican Commissioners could not fail to stop for a moment and seriously consider what was meant by this attack. They knew perfectly well that their official standing and their right to submit to the President the views and wishes of their constituents cannot be affected by it; but they knew also that there was prudence in looking into the matter and seeing whether it was advisable to make some effort to overcome the antagonism now encountered by them.

What in the world could have been the object of the *Star's* statements of May 8th, 1899? What was to be gained by it? What good could it do? Was it, perhaps, an expression of despite from some one outside the paper and a desperate effort to prevent the Puerto Rican Commissioners from winning a case which, through the impregnable character of their arguments, was already half won? Or was it, perhaps—and this was much more serious—that the ill-will towards Puerto Rico and the Puerto Ricans is carried to such an extent by the *Star*, or by the people from whom it derives its inspirations, as to make them wish that the Puerto Rican people should be stripped even of the right, recognized without difficulty to the uncivilized Indians of the United States, of sending representatives to set forth before the Washington Government their grievances and their wishes?

But as the powers of the Puerto Rican Commissioners were presented by them to the Secretary of State of the United States of America and as the President of the United States of America, upon the presentation and examination of those credentials, was pleased to grant the Puerto Rican Commissioners* the

* The following letter explains itself sufficiently:

"EXECUTIVE MANSION,

WASHINGTON, January 20, 1899.

"DR. J. JULIO HENNA,
The Arlington, Washington D. C.

"DEAR SIR: The Secretary of State directs me to say that the President will be pleased to see you at the Executive Mansion this afternoon at 2.30 Very respectfully yours,

BENJ. F. MONTGOMERY."

honor of being received by him, and has heard them not once or twice, but as many times as have been necessary, the conclusion was forced upon the minds of the Puerto Rican Commissioners that ignoring the attack was perhaps the best course to be followed by them.

It is due nevertheless to the people of the United States that something should be said on the subject.

Commissioner Don EUGENIO M. HOSTOS, who signed the first communication to the President and had the honor to confer with him personally on the subject of his mission, was elected by acclamation at a mass meeting held at San Juan, the capital of Puerto Rico, under the very eyes of General Henry. The election was the result of an outburst of patriotic feeling, which became uncontrolable. Some one in the audience asked the people whether they knew the man whom he pointed at with his finger, and when the fact was known that that man was HOSTOS, a deafening outcry "to Washington, to Washington," "Commissioner, Commissioner," immediatelv followed. Never an election has been more spontaneous or unanimous.

Commissioner HOSTOS represents furthermore the city and district of Ponce and the City Corporation of Juana Diaz. The people of Ponce elected him at a largely attended public meeting, and the City Corporation of Juana Diaz gave him its power of attorney to come to Washington and represent and defend its rights and interests. He also represents the city and district of Peñuelas.

DR. ZENO GANDIA was elected by the people of Adjuntas on November 15th, 1898, and subsequently by the people of Sabana Grande. His credentials are signed by a large number of people, and are countersigned and authenticated respectively by the Mayor of the city of Ponce, by Captain P. Evans, 19th Infantry, U. S. A., the highest local authority of the district, and by Mr. G. B. Cassatt, Adjutant General, acting by order of Col. Burker, Military Commander of the District.

DR. HENNA was elected together with Commissioner HOSTOS

to represent Ponce and its district, the City Council of Juana Diaz, and the city and district of Peñuelas.

To the determination of the point, whether powers of attorney, or credentials by which an envoy of whatsoever kind is accredited, are or are not good and in due form, there are no more than two parties, to wit: the envoy himself and the person or authority near whom he comes accredited. The attempt of any outsider to pass opinion on the subject is merely intrusion.

As to the point whether the Puerto Rican Commissioners represent, or not, the prevailing sentiment of the people of the island, the Puerto Rican people themselves shall give the proper answer.

NOTE NO. 3.

ON MILITARY RULE.

Statements made by Major-General Guy V. Henry, Ex-Military Governor of Puerto Rico.

I.

In General Orders issued by General Henry at San Juan de Puerto Rico April 6th, 1899, he expressed himself as follows:

"It is not believed that any thought of determined opposition to law and order exists in Puerto Rico, but should such be the truth IT WOULD BE CRUSHED AT ONCE, AND WOULD PROVE TO BE SUICIDE OF THE ISLAND."

II.

In an interview held with General Henry on the 17th of May, 1899, published on the day following, by the Washington *Post*, he said:

"To one man who came from Adjuntas to tell me of an uprising I said: 'Go back to Adjuntas and DIG MANY GRAVES. Rise to-morrow, and I SHALL ORDER OUT THE AMERICAN SOLDIERS TO SHOOT THE PUERTO RICANS DOWN AND FILL THOSE GRAVES.' He went home, and telegraphed later that there would be no massacre."

NOTE No. 4.

ON THE MILITIA.

PUERTO RICO COMMISSION
TO THE UNITED STATES.

WASHINGTON D. C., February 10, 1899.

TO THE HON. RUSSELL A. ALGER,
SECRETARY OF WAR, WASHINGTON, D. C.

SIR :

In compliance with your request, as expressed at our interview on Jan. 21, inst., in regard to the reduction of the military garrison of Puerto Rico to a force sufficiently large for all purposes, we beg leave to submit for your consideration a plan of organization which will be most welcome to our people, efface the existing friction between the military and civil elements, and ensure perfect harmony and fraternity in the future.

It were perhaps opportune to bear in mind that a country which, for a period of over four hundred years, has been subjected to the rigors of Spanish military government, (in all that the phrase implies), is to a certain extent justified in looking upon similar organizations with sentiments of the greatest displeasure, distrust and anxiety, unless the native element should be allowed and called upon to form part.

We propose:

First: That the reduction of the garrison of Puerto Rico be carried out in the proportion of 300 men for every one of the seven departments, making a total of 2,100 men, exclusive of officers.

Second: That the ranks be filled with an equal number of Americans and Puerto Ricans.

Third: That the men be constantly occupied in military evolutions and exercises, in order that idleness should not tempt or lead them into acts of immorality and degradation.

Such a plan cannot but prove most productive of the best results, for the following reasons:

First: Because the natives of Puerto Rico are peacefully inclined, laborious, obedient to law and easily governed.

Second: Because the admission of the natives into the ranks, besides demonstrating in a practical manner the good will and intentions of the American Government, also tends to raise them from the state of subjection in which they were kept during the most cruel and despotic of Governments, namely: the

Spanish military government, and to elevate them to the category of citizens on an equal footing with their comrades.

Third: Because by keeping them constantly occupied, discipline is better preserved; acts of immorality which enforced idleness engenders will be prevented and a high degree of exemplary conduct which the soldier should feel proud to observe will be reached.

And, finally, because such a plan as the one herein submitted, besides affording our young men an opportunity for physical development and expansion of their mental faculties, also gives them the opportunity for demonstrating in a practical manner the high appreciation and the heartfelt gratitude in which the Puerto Ricans hold the magnanimity and justice shown us by the Americans.

Respectfully submitted by the Puerto Rican Commissioners.

J. Julio Henna. Eugenio M. Hostos. M. Zeno Gandia.

Note No. 5.

MONETARY PROBLEM.

To His Excellency William McKinley,
President of the United States,
Executive Mansion, Washington, D. C.:

The Redemption of the Currency of Puerto Rico.

This question, which is of vital interest to the people of Puerto Rico, needs a prompt solution. It is not only a matter of political economy, but of social importance as well.

Neither the Puerto Ricans nor those who are in commercial relations with them are exempted from suffering the prejudicial effects of the monetary anarchy existing at present in the island.

There is in circulation at the present moment a "peso," or dollar, of less intrinsic value than is attributed to it, and there are approximately 60,000,000 "pesos" in standing debts which

must be redeemed, subject to the difference of value between the United States gold dollar and the said "peso."

This want of an established monetary standard is not new to us; its frequency has become historical. The same factors, influenced by identical causes and by the lack of foresight of the Spanish Government, have been instrumental in producing repeatedly the same identical results during a century at least. Business relations have been neither equitable nor regulated by the laws of social economy; they have always marked the existence of a struggle between classes, in which the greed of speculation has not been the least blamable factor.

In the year 1813 a paper currency existed in the island whose value became so unstable that it was found necessary to substitute it for another kind of legal tender. We could enlarge upon this theme, were it so desired, but suffice it to say that this conversion of the currency caused the island to sustain a loss of 12 per cent. The war of independence and the separation from the mother country of the South American Republics occurred at that time. The immigrants from those countries introduced into the island of Puerto Rico the so-called "Macuquina" currency, the admittance and circulation of which were permitted by the Spanish Government.

This new kind of currency was very irregular in form. It consisted of shapeless pieces of gold and silver whose values were uncertain and which, little by little, were reduced in size by the pilfering action of speculators, so much so that their circulation became an imposition and a scandal. In 1840 a new conversion of the currency was made by the Government, and the "Macuquina" coins gave place to the legal tender of Spain. This conversion was followed by period of calm which seemed to indicate that this question had found a satisfactory solution. The establishment of a monetary system or standard which would prove a guarantee to business and to commercial enterprise became then possible. But nothing was done. There were in circulation, as legal tenders with identical val-

ues the Spanish "peso," the American "dollar," and the French "napoleon," and, as the tendency was to consider the island as transitory ground for speculation, many capitalists, taking advantage of the "at par" rate of exchange, withdrew their funds.

The island found itself at that moment nearly destitute of currency. The crisis became general. In 1873 slavery was abolished and it was decided that the payment of the indemnification ordered should be made by the Treasury of Puerto Rico. To this end the Government created what were called "abolition bonds," and these were given in payment to the former slave-owners.

These bonds became depreciated, because of the irregularity with which they were redeemed.

Later on a certain number of the bondholders founded the "Banco Español," a privileged institution located at San Juan. The majority of them accepted the proposition of a European syndicate and received in return for their depreciated bonds a certain amount of money in Mexican dollars.

This which took place in 1878, coinciding with the general silver crisis, created in the island a continually unsettled state in business enterprises. The capricious fluctuations of the rates of exchange were more often produced by the secret influences of monopolies than by logical causes increased the evil.

The bad effect of these abnormal conditions was felt most injuriously, first, by the agricultural interests of the island—almost the only source of wealth—and, secondly, by the people, the long-suffering people, who, surrounded by most pressing wants, bent still under the weight of this situation.

The use of the Mexican "peso" in business operations presented many difficulties, the details of which can be given if necessary, and when its further circulation became impossible and rendered a new conversion imperative the Spanish Government directed its withdrawal in a manner most ruinous to

the country. This happened in 1895 and the island suffered a loss of 5 per cent. by this fourth conversion.

The march of events has placed our country under military occupation by the United States, and we find ourselves again face to face with another necessary conversion of the currency.

We have, therefore, undergone for a century serious economical disturbances, and our country asks that this problem be given immediate attention and definite solution.

Justice, equity, and a sincere aspiration to the future welfare of our country are the elements upon which the solution of this monetary problem should be based.

To the special "peso" of Puerto Rico the Spanish Government gave an arbitrary value of 100 cents, and while imposing it upon us it refused to guarantee its face value and prohibited its circulation in Spain.

There are some among our people who are of the opinion and claim that the United States Government should fix at 66⅔ cents the value of said "peso." This value they calculate from the average rates of exchange which have prevailed in the island from 1891 to 1897, omitting the rate of exchange of 1898, alleging that it was an abnormal year. To do this they average the rates of exchange corresponding to the Mexican "peso" up to 1895 and of the Puerto Rican "peso" from that date to 1897.

Others believe that the "peso" should have no other value than that which it represents intrinsically.

We believe that the face value of 100 cents given it by the Spanish Government should be repudiated as unjust, and that the Puerto Rican "peso" cannot have a conventional value, because it is not guaranteed by any nation. Again, because the value of said "peso" cannot be based upon the "average rates of exchange" during the years already mentioned: First, because it has been in circulation only since 1895; second, because the Mexican "peso," which represented an entirely different value, circulated previous to that date; third, because

to arrive at an equitable calculation of the average rate of exchange it would be unreasonable to accept an average calculated upon different rates of exchange of two unequal currencies, the Puerto Rican "peso" being worth 5 cents less than the Mexican "peso;" fourth, because even though an average between these two were found it would not do away with their actual difference in value such as represented outside the island. From this we conclude that an average rate of exchange based upon the heterogeneous values of the several coins can not be a judicious evaluation, nor one founded upon truth and justice.

We believe that the intrinsic value of the special "peso" of Puerto Rico is the only just one, since it is the true one, and justice ever seeks the truth.

It is self evident that when a responsible and well-governed nation guarantees its currency the said currency can be given a purely nominal value, at all times redeemable by the Treasury; but when these essentials to a stable currency do not exist, it can be affirmed that, as the latter is nothing but an instrument of exchange between individuals of a nation as well as between different nations, its value should not be made dependant upon caprice, but upon the actual estimated worth of its component metals. However deplorable the condition of a country may be its currency should never be given a face value greater than its real value unless it is guaranteed by the government; otherwise the forcible elevation in value must terminate in disastrous bankruptcy. In such a state of financial unsteadiness the one who owes fails to pay, though he may appear to do so, and every honest citizen becomes guilty of a bad and dangerous action, disturbs all legal business transactions and causes many other evils without deriving therefrom any thing but discredit.

If the Government over which your Excellency presides desires to show us some regard by giving solution to the monetary problem of Puerto Rico, we would earnestly ask

that the following circumstances should be taken into consideration:

First. That the value—100 cents—being but arbitrary, cannot serve as a factor in the final settlement.

Second. That the intrinsic value of the special "peso," estimated at between 41 and 42 cents, is the only one which, in absolute fairness, can serve as a factor in the settlement.

Third. That the conventional value of 66⅔ cents, which some people advocate, ought also to be considered as a factor.

And whereas a settlement does not mean the sacrifice of all opinions to an ideal of justice, whether real or imaginary, but in fact represents mutual concession, each party yielding to the other until a point of reciprocal agreement is reached, we beg to propose that the solution of the currency problem of Puerto Rico be obtained by:

First. Officially determining and fixing the intrinsic value of the special "peso."

Second. Adopting as comparative factor the value—66⅔ cents—desired by the adherents of the conventional value.

Third. Establishing an average value between the intrinsic and the conventional ones.

We also beg to propose that the value thus found be adopted as a basis for the payment of all the outstanding debts in the island.

Respectfully submitted by the Puerto Rican Commissioners.

M. Zeno Gandia. Eugenio M. Hostos. J. Julio Henna.

Washington, D. C., January 19, 1899.

NOTE NO. 6.

ON BANKS AND BANKING.

PUERTO RICO COMMISSION
TO THE UNITED STATES.

WASHINGTON, D. C., February 10, 1899.

TO THE HON. LYMAN J. GAGE,
SECRETARY OF THE TREASURY:

SIR:

The undersigned, members of the Puerto Rico Commission to the United States, respectfully submit for your kind consideration the following Memorandum, in the hope that you will lend us your moral support, in aiding the Government of the United States to grant to the people we have the honor to represent what is here petitioned.

The decline of the Island of Puerto Rico is in a great measure due to its present system of onerous loans. An Island, the actual cultivated area of which scarcely represents one-twentieth part of its productive zone, and which reckons $17,000,000 of yearly exports, is bound to become the richest producing land on earth. But in order to achieve this, facilities in the shape of Loaning Institutions, similar to those existing in the United States, must necessarily be established. The farmer should not, as he does at the present time, refrain from raising a loan, for fear of being in the end ruined, or dispossessed by the loaning institution. With proper facilities, Puerto Rico can produce $300,000,000 a year.

It is a fundamental principle of Banking Institutions and a well known and established fact that a loan on the simple guarantee of a good signature (an absolute credit) means a "risk," which can only be assumed by the lender in consideration of a larger or higher rate of interest; whereas borrowing on "mortgage security," involving but very little risk, if any,

can readily be granted, and at a considerable lower rate of interest. But in Puerto Rico it is the very opposite, two signatures of well known persons being generally preferred to a mortgage security. Institutions for loaning have been established in the Island at different epochs, but the majority of them only loaned money for commercial transactions; while others limited their operations to the monopoly of foreign exchange, or would not make loans except to the rich agriculturists. The few that extended their operations to the smaller farmers only did so under such stringent and exacting terms which almost defeated their object. This state of things compelled the farmers to seek for loans elsewhere. Private lenders were called upon, but with no better results. In the majority of cases these new species of loaning concerns, called "Refaccionistas," rather than improve the condition of the farmers drove them to inevitable ruin. The periods of instalments were purposely made so short that scarcely any time was allowed for gathering the crop before the obligation fell due. The interest charged was from 12 to 30 per cent. As a guarantee for the prompt payment of the debt, mortgages on the property were given, but so curiously and craftily were the deeds drawn and worded that the failure to pay the interest and instalment of the first year gave the lender (Refaccionista) the right to consider the other instalments also due. The farmer was brought before a Judge on foreclosure proceedings, and then and there summarily dispossessed of his property. Other "Refaccionistas" demanded and obtained as guarantee for the faithful payment of the loan a bill or deed of trust on the property, and until the last instalment was paid the lender (Refaccionista) figured as the real owner of the property. Still some others actually obtained an actual bill of sale of the property, the farmer giving besides a promissory note for money loaned him to cultivate a land that would not revert to him until the money was paid back, and in the majority of cases the property never again returned to his possession. A careful search of the Notarial

archives will readily reveal and corroborate this most cruel and ruinous state of things.

The Colonial administrative regime being founded on usury, many an usurer took shelter under and found support in its obnoxious example.

This state of things unquestionably suggests the necessity of establishing in the Island Agricultural Banks—banks that will loan money on easy terms and at fair rates of interest, without limiting their operations to the larger farmers, but with equal regard for the smaller ones. Also, National Banks, for the promotion of business and industrial enterprises, with a fixed rate of interest.

For the above reasons we ask: that the Federal Banking Laws be without delay made extensive to our Island, as the fundamental law within which all classes of credit institutions may be freely established.

Respectfully submitted by the Puerto Rico Commissioners.

M. Zeno Gandia. Eugenio M. Hostos. J. Julio Henna.

Note No. 7.

ON TAXATION AND PUBLIC INSTRUCTION.

Although the Puerto Rican Commissioners believed, and still continue to believe, that the matters of taxation and public instruction fall under the exclusive jurisdiction of the people of the Island, and are absolutely beyond the reach of the military authorities, they thought it advisable to address to the Secretary of War the two following letters. Their object was to show that the measures referred to by them in their letters are urgent, and that it is the duty as well as the interest of the American Government to do something at once on these subjects:

I.

PUERTO RICO COMMISSION
TO THE UNITED STATES.

Washington, D. C., February 10, 1899.

To the Hon. Russell A. Alger,
Secretary of War, Washington, D. C.

Sir:

The undersigned, Commissioners of the Puerto Rican people, beg leave to submit to Your Excellency this memorandum relating to taxation in the Island of Puerto Rico.

The system of taxation established in the Island under the Spanish regime, and which is still in operation, is nothing more than a measure for deliberate spoliation. Apart from the custom duties and other numerous exactions, there exists also what is called the "territorial tax," which is ruinous to the agricultural interests of the Island, as it is levied on the income, not on the value of the property.

This territorial tax was devised for the purpose of finding out the exact income of every taxpayer, without regard to the value of the property that produces it, whether real, industrial or otherwise. This income on which a percentage is levied is

called by the people "renta imponible," which means in English "taxable income."

This system of taxation, unjust, uncertain and onerous, positively curtails the expansion of production. So ruinous has this method proven to the agricultural interests, that scarcely one-twentieth of the productive zone in the Island is cultivated. It tends, furthermore, to corrupt the morals of our people, by tempting them to conceal their real income and its sources of production, and to bribe the collectors, as it is often done.

In order to avoid the further ruin of our agricultural interests and contribute to the enlargement of our field of production, which is the principal base of our income and our wealth, we ask:

That taxes be levied on the value of the property, and not on its products. When this is granted it will become necessary to ascertain the amount and value of the existing property by establishing a Taxation Bureau which shall proceed to the careful organization and re-adjustment of the property to be assessed.

We are aware that this reform belongs more properly to and is one of the attributes of the municipal bodies in the Island, but unless you are pleased to recommend and direct that it be introduced without delay, we have reasons to believe that such an important step will be further neglected.

Respectfully submitted by the Puerto Rican Commissioners,

J. Julio Henna. M. Zeno Gandia. Eugenio M. Hostos.

II.

ON PUBLIC INSTRUCTION.

PUERTO RICO COMMISSION
TO THE UNITED STATES.

WASHINGTON, D. C., February, 10, 1899.

To the HON. RUSSELL A. ALGER,
SECRETARY OF WAR, WASHINGTON, D. C.

SIR :

The undersigned members of the Puerto Rican Commission to the United States respectfully submit for your consideration the following:

Fully in accord with the able and exhaustive report of Capt. Gardner to the War Department on Educational problems in Puerto Rico, which varies very little with our own observations and data, we come to suggest a plan of reorganization of the school system, which, if acceptable to you, and to the Government, might be at once forwarded, with the necessary instructions for speedy action, to our Governor-General.

Taking into consideration the population of each of the seven departments in which the Island of Puerto Rico is divided, we find that the various schools should be located as follows :

1 Kindergarten at each Capital of Department.
1 Public School at each one of the 73 towns.
1 male and 1 female Normal-School at Ponce, and
1 male and 1 female Normal-School at Mayaguez.
1 School of Medicine and 1 Law School at Río Piedras.
2 Schools of Agriculture, one at Arecibo, the other at Adjuntas.
1 Manual Training School at either Guayama or Ponce.

Total : 7 Kindergartens.
73 Public Schools.
4 Normal Schools.
1 School of Medicine.
1 Law School.
2 Schools of Agriculture.
1 Manual Training School.

We will also petition that the attendance to Public Schools be made compulsory between the ages of 5 and 14 years. That the hours of attendance be fixed from 8 to 11 A. M. and 2 to 4 P. M., except Thursdays afternoon. That during the rainy season attendance should be limited to only the morning hours, except during the month of August, which shall be a month of vacation and complete rest.

Our experience has taught us that in the warm climates the suspension of all occupations during the warmest hours of the day, between 11 A. M. and 2 P. M., tends greatly to the preservation of good health, and that the native children can stand a long uninterrupted school season much better than the children of the Northern climates.

Respectfully submitted by the Puerto Rican Commissioners.

EUGENIO M. HOSTOS. J. JULIO HENNA. M. ZENO GANDIA.

NOTE NO 8.

THE PUERTO RICAN TARIFF.

[Submitted to the New York Chamber of Commerce.]

A proper study of the customs laws, which the President of the United States in his capacity of Commander-in-Chief of the Army and Navy of the United States has been pleased to enforce in Puerto Rico, gives rise to the following questions:

Had the President any legal authority to enact such laws? Are those laws constitutional? Is it not in the interest of both the United States and Puerto Rico that those laws be at once repealed?

It is submitted respectfully:

1. That the President of the United States of America had no authority on August 19th, 1898, to enact and promulgate, as he did, a Customs Tariff and Rules for the collection of duties, etc., etc., for the island of Puerto Rico.

2. That the President had no authority on the 20th of January, 1899, to enact and promulgate, as he did, the "Amended Customs Tariff and Regulations for ports in Puerto Rico," or to enact and promulgate thereafter the numerous amendments made to said Tariff.

3. That the President had no authority, subsequent to the promulgation of the treaty of peace with Spain on April 11th, 1899, when the state of war ceased and Puerto Rico became *de jure* an integral part of the American territory, to retain in operation the said Amended Customs Tariff or any of its amendments.

4. That by keeping in force in Puerto Rico the said Amended Customs Tariff of January 20th, 1898, and its numerous subsequent modifications, the principles and doctrines of true protection and the just traditional aspirations of the Puerto Rican people have been disregarded.

I.

On the 19th of August, 1898, when the first Puerto Rican Tariff was promulgated, Puerto Rico was not as yet a part of the United States of America, and the President of the United States of America had not therefore any right to legislate in any capacity at all on any matter concerning that island.

The Supreme Court of the United States has said:

"The capture and occupation of Tampico by the arms of the United States, during the war with Mexico, though sufficient to cause it to be regarded by other nations as a part of our territory, did not make it a part of the United States under our Constitution and laws; it remained a foreign country within the meaning of the revenue laws of the United States."

Fleming *vs.* Page, 9 Howard, 603.

Strike out the words Tampico and Mexico, and replace them by Puerto Rico and Spain, respectively, and the case is adjudged.

If Puerto Rico was a foreign country, as it was under the above decision, on August 19, 1898, the Government of the United States could not legitimately exercise over it legislative jurisdiction.

It might be said in extenuation of the undue assumption of power which is now under consideration, that under the Peace Protocol of August, 12, 1898, seven days before the promulgation of the tariff in question, Spain agreed to cede Puerto Rico to the United States at some future time, she was guarded enough not to specify. But the answer could be readily given that the phrase used by Spain and accepted by the United States of America, "Spain will cede," did not convey to the United States of America any rights on Puerto Rico. "Spain will cede" is something very different from "Spain cedes" or "Spain does hereby cede," and merely means the intention, or the readiness, on the part of Spain, to make the cession of the island some time in the future.

It might be said, perhaps, that the phrase, such as written, implies a promise by Spain to cede Puerto Rico to the United States of America; but the difference existing between a promise to cede and an actual cession does not need to be explained. Neither sovereignty, nor jurisdiction, nor any right whatever can be conveyed from a state to another, or from a person to another by a promise of this kind. It is a matter of history that this promise was not only not made upon sufficient consideration, but under compulsion.

The diplomatic record of the transaction shows that when the Government of Spain, through the authorized channel of its Minister of State, Duke of Almodovar del Rio, directly inquired from President McKinley, on July 22nd, 1898, "upon which conditions the present struggle could be terminated otherwise than by force of arms,"—the President replied, through Mr. William R. Day, Secretary of State, July 30th, 1898,—that Spain had to relinquish all claim of sovereignty over or title to Cuba, and immediately evacuate the island,—and that he (the President) being desirous of exhibiting signal generosity, instead of putting forward a demand for pecuniary indemnity, would content himself with requiring the cession to the United States and the immediate evacuation by Spain of the Island of Puerto Rico, and some other islands:—that in reply to this statement, Spain said, on the 7th of August following, by letter not to the President McKinley, but to Mr. Day, that the President's demand expelled her at once from the prosperous island of Puerto Rico; that "it might perhaps have been possible to compensate by some other cession for the injuries sustained by the United States;" but that, notwithstanding all this, Spain being compelled by the inflexibility of the demand would submit to it and cede Puerto Rico and the other desired islands to the United States of America:—that on the 12th of the same month of August, 1898, a protocol of agreement between the United States and Spain was signed at Washington, by Mr. William R. Day, representing the United

States, and Mr. Jules Cambon, Ambassador of France in Washington, representing Spain:—and that Article II of said protocol reads as follows: "Spain will cede to the United States the Island of Puerto Rico."

As stated before, these words "will cede," written on the 12th of August, 1898, cannot be tortured by any method of interpretation whatever into an actual conveyance of title.

The Supreme Court of the United States has declared that "the holding of a conquered territory is regarded as a mere military occupation until its fate shall be determined by the treaty of peace." American Insurance Co. *vs.* Canter, 1, Peters, 511.

The promise of Spain to cede to the United States at some future, not specified, time the island of Puerto Rico, did not change the purely military character of the occupation of the island by the United States on August 19, 1898, and did not vest upon the President any authority to exercise over that island sovereign jurisdiction.

The case of California in 1847 might be cited, however, in an attempt to justify the action of the United States in regard to Puerto Rico, at the time and under the circumstances to which reference is herein made. But the attempt would be fruitless.

It is true that the port of San Francisco was conquered by the United States as early as 1846, that shortly afterwards the United States had military possession of the whole Upper California, and that early in 1847 the President, as Constitutional Commander-in-Chief of the Army and Navy, authorized the military and naval commanders of the American forces at California to exercise the belligerant rights of a conqueror, and TO FORM A CIVIL GOVERNMENT FOR THE CONQUERED COUNTRY (what a difference between this act of President Polk with conquered California and the act of President McKinley with conquered Puerto Rico), and to impose duties on imports and tonnage as military contributions for the support of the Government and

of the army which had the conquest in possession. Cross *vs.* Harrison, 16 Howard, 190.

But this authority given by President Polk in 1847 to the military commanders of California, *pendenti bello*, was something very different from the tariff enactment of President McKinley of August 19, 1898, seven days after the termination of the war.

II.

On January 20th, 1899, the date of enactment of the Amended Customs Tariff and Regulations for ports in Puerto Rico, things were in exactly the same condition in which they were on the 19th of August, 1898, when the Tariff now amended was published.

It is true that a Treaty of Peace was made and signed at Paris on December 10th, 1898, and that under Article II of said treaty Spain ceded Puerto Rico to the United States. But it is true also that this article and many others, if not all, of that instrument are affected by the protest of the Spanish Commissioners attached to Protocol No. 21 of the negotiations which culminated in that compact,—and that the compact itself did not become valid, as far as the United States are concerned, until ratified by the President, with the advice and consent of the Senate, and proclaimed as law. This was not done until April 11th, 1899.

All that has been said in regard to the Customs Tariff of August 19th, 1898, is applicable to the Amended Customs Tariff of January 20th, 1899.

III.

After the restoration of peace, the proclamation of the treaty, and the restoration of friendly relations with Spain, President McKinley ceased to have authority to exercise belligerent rights in Puerto Rico as Commander-in-Chief of the armies of the United States.

Puerto Rico having become an integral part of the United

States could not be any longer submitted to the exceptional authority which the state of war, and only the state of war, confers upon the President. This exceptional authority vanishes entirely as soon as peace is established.

In addition to this point, the force of which seems to be undeniable, there is another which demands attention.

Can the President of the United States do anything in Puerto Rico, in the name of the United States, upon no other foundation than the treaty of peace? Can he, as he has done, legislate on customs, on marriage, on divorce, etc., etc., only because Puerto Rico was ceded by Spain to the United States by the treaty proclaimed on April 11th, 1899? Could he, even, accept that cession, and carry on the provisions of the treaty, without special authorization by Congress?

Precedents are against him in this matter.

It may be that we are now, as it has been said, better and more enlightened than our fathers. We may have outgrown the principles of the Declaration of Independence and the Constitution and old laws of this country. But the precedents are there and cannot be expunged from the record. Louisiana and Florida were ceded by their respective sovereigns to the United States of America, and the cessions were made by treaties, which were approved by the Senate and proclaimed by the President. But the President did not think himself authorized to take possession of the territories ceded, in spite of the approval of the Treaty of Cession, until authorized to do so by special act of Congress. See the Act of Congress approved October 31, 1803, "enabling the President of the United States to take possession of the territories ceded by France to the United States by the treaty concluded at Paris on the 30th of April last, and for the temporary government thereof," and the Act of Congress approved March 3d, 1831, by which the President of the United States was "authorized to take possession of and occupy the territories of East and West Florida and the appendages and appurtenances thereof."

Where is the Act of Congress which authorized the President to take possession of Puerto Rico?

Suppose, however, that such an authorization was not necessary and that the President could do lawfully with Puerto Rico what his predecessors could not do with Louisiana and Florida, upon what ground can he base his authority to exercise, in times of peace, legislative jurisdiction on that island?

Since when has the legislative power of the United States of America (and Puerto Rico is now a part of the United States of America) cease to be exclusively vested in Congress?

Since when has the right to levy taxes and customs been vested in the Executive?

Article 1st, section 8th, clause 1st of the Constitution of the United States of America gives this power to lay and collect taxes, duties, imposts and excises not to the President of the United States but to Congress. And as the same article, section and clause provide that all duties, imposts and excises shall be uniform throughout the United States, the conclusion is unavoidable that the Constitution of the United States has been violated by laying and collecting duties in Puerto Rico which are not the same duties levied and collected in the United States.

And as the Constitution of the United States (article 1st, section 9, clause 6) provides that no vessel bound to or from one State be obliged to pay duties in another, the conclusion is also unavoidable that the Constitution of the United States has been violated by forcing American vessels going from continental American territory to the insular American territory of Puerto Rico or *vice versa* to pay customs duties.

Protective tariffs may be used, if used at all, against foreign countries, not against sections of the same country. If one thing more than another has contributed to the rapid and enormous development of the United States, that thing has been the absolute freedom of commerce among States and States and States and Territories.

IV.

In keeping in force in Puerto Rico the Amended Customs Tariff of January 20th, 1899, and its subsequent modifications the President has deviated from the principles of true protection, and absolutely ignored the traditional aspirations of the Puerto Rican people.

A simple glance at the history of the reciprocity arrangements of Mr. Blaine will suffice to prove this assertion. In a pamphlet which had immense circulation during the presidential campaign, which brought Mr. Harrison to the Presidential chair, there is a letter of Mr. Blaine to Senator Frye, July 11, 1890, where he said: "I do not doubt that in many respects the tariff bill pending in the Senate (the McKinley bill) is a just measure, and that most of its provisions are in accordance with the wise policy of protection. But there is not a section or a line in the entire bill that will open a market for another bushel of wheat or another barrel of pork."

Mr. Blaine explained his ideas of reciprocity, and said: "There is an opportunity where the farmer may be benefitted. There is an opportunity for a Republican congress to open the markets of 40,000,000 people (the Latin people of America) to the products of American farms. Shall we seize the opportunity, or shall we throw it away?"

History shows that it was not thrown away. Mr. Blaine carried his point, and the amendment which allowed Mr. Blaine's plans to be carried out was adopted. New markets were open to the American farms and factories.

Why is that opportunity to be thrown away in Puerto Rico?

Why is the American flour, instead of being admitted in the Puerto Rican ports free of duty, burdened with the same duty, one dollar per 100 kilog., which it paid when Puerto Rico was Spanish and the Spanish miller had to be protected?

Why are American meat and butter and beans and vegetables, when taken to Puerto Rico, burdened with import duties, to

the detriment both of the American farmer and the Puerto Rican consumer?

Can it be doubted for a moment that the abolition of all duties on American merchandise imported in Puerto Rico would favor the American farm and factory, as Mr. Blaine put it, and do great good to the Puerto Rican people?

And why not to admit free of duty in the United States the Puerto Rican sugar and all other Puerto Rican products?

Has it not been proven at the investigation now in progress before the Industrial Commission about trusts that the scarcity of Cuban sugar, due to the Cuban revolution, has compelled the refiners to go to Austria and Germany to get there what they needed? Was it not better and nearer and cheaper (were it not for the duties) to go and get it in Puerto Rico? *

And if it is true and undeniable that with free trade between Puerto Rico and the continental portions of the United States the trade of the United States in pork, in beef, in flour, in lumber, in salt, in iron, in shoes, in calico, in furniture, in machinery and in thousands of other American articles would be enlarged to immense proportions,—and the production of sugar, coffee, tobacco, cocoa, etc., in Puerto Rico would be immensely developed, why not to grant it at once?

Who is going to be benefitted by the establishment of a customs barrier between section and section of the American Union?

Gen. Henry said in his interview of May 17, 1899: "The Puerto Ricans are anxious for a territorial form of government; but the question is how are they going to get money if the customs duties are wiped out." The ex-Governor of Puerto Rico fails to see that money can be raised in many

* See the testimony of Mr. James H. Post, of Brooklyn, a representative of the Mullenhauer Sugar Company, and the National Sugar Company of New York, given before the Industrial Commission, June 16th, 1899.

other ways than customs duties;—that in England custom houses are not by any means the most abundant sources to get money,—and that the Puerto Rican people themselves when they asked from Spain in 1867 the abolition of the custom houses they submitted a plan, as complete and satisfactory as can be, for the raising of the funds which are necessary for the support of the government.

In spite of all statements to the contrary, the fact is that the Puerto Rican working classes are in destitution. The plan of using Army rations to feed the people was at first resorted to. Then the plan was improved by undertaking the construction of roads and other public works of this kind. No reasonable man can doubt for a moment that the very same fact that the government has to invent work to keep the people employed is the best possible indication that the people can find no employment. And the fact that a farmer, in a tropical climate, with a soil like the Puerto Rican soil, can find no better manner of escaping starvation than go to build roads under the military direction of some American Army officer seems to be complete proof that something very wrong exists in Puerto Rico.

On the other hand, the Puerto Rican peasants cannot spend their whole life in building roads. Some day these roads will be finished, unless the military engineers who are conducting the work are willing to undertake a Penelopian system of doing and undoing, so as to perpetuate the situation.

What will the farmers do when the roads are finished?

Would it not be better for them and for the United States Government also to leave the Puerto Ricans to themselves, and allow them to attend to their own business, and extricate themselves of their own difficulties by their own means and according to their own ideas? Would it not be better to put down the barriers which the Government of the United States has unjustly and unnecessarily built around the trade of Puerto Rico?

William R. Corwine of the Merchants' Association of New York, who was sent to Puerto Rico by that organization for the purpose of making an investigation of the general commercial conditions in that island, came to Washington and gave a copy of his report to President McKinley, who granted him an audience for the purpose of hearing what he had to say about the general conditions in Puerto Rico.

Mr. Corwine also called on Mr. Meiklejohn, Assistant Secretary of War, Secretary Hay and Secretary Gage, and had an informal talk with each of these officials upon Puerto Rico.

Mr. Corwine's report says that the tariff in operation in the island is a serious bar to American trade. He continues:

"The change from Spanish to American rule has not thus far benefitted the industries of the island, and unless something is done very soon to relieve the situation, the trade conditions of the island will become very serious indeed. When Spanish authority ended in Puerto Rico, Spain, naturally enough, ceased to have any interest in that island. The transfer of the island to the United States has not yet brought to it any substitute for the markets for that portion of her products which she lost when she ceased to be a possession of Spain, and the present state of the island *is worse than its previous one.* I refer entirely to commercial matters."

The sugar, tobacco and coffee crops have greatly shrunk, throwing many out of employment. The report concludes:

"If free trade between Puerto Rico and the United States were established on the same basis as there is free trade between the states and territories of the United States, happiness would prevail on the island and an impetus would be given to business which would invite American capital, backed by American brain and enterprise, to develop the island in many ways, and all the minor sources of complaint by the Puerto Ricans growing out of the operations of the tariff laws would vanish immediately. If any commercial relief is to be afforded Puerto Rico, it ought to be afforded quickly. Tobacco planting in that island begins in October. If present tariff conditions which shut off the island's market for tobacco are to continue, the crop, which this year is only one-third of the normal, is apt to contract still further. This will add to the already large

number of unemployed plantation hands and will still further contract the purchasing power of the people.

"The people of intelligence in Puerto Rico feel that as a part of the United States the island is entitled to the same freedom of trade with the country to which it belongs as the different states and territories enjoy with each other. The solution of the difficulty is the abolition of the special tariff which has been provided for that island."

List of some American articles which, under the reciprocity arrangements of Mr. Blaine in 1891, were admitted in Puerto Rico free of duties, but are burdened with duties in the Amended Customs Tariff for Puerto Rico promulgated by President McKinley on January 20, 1899:

1. Marble, jasper and alabaster, natural or artificial, in rough or in pieces, dressed, squared and prepared for taking shape. Free under the reciprocity arrangements. Import duty of $0.50 per 100 kilograms under the Amended Tariff.

2. Other stones, natural and artificial, free under the reciprocity arrangements. Duty of $0.50 and $1.00 per 100 kil., according to circumstances, under the Amended Customs Tariff.

3. Earthy matters employed in building and in the arts and industry, free under the reciprocity arrangements. Duty of $0.60 per 100 kil. under the Amended Customs Tariff.

4. Cement, free under the reciprocity arrangements. Duty of $0 60 under the Amended Customs Tariff.

5. Coal, free under the reciprocity arrangements. Duty of $0.20 per 1,000 kil. net, under the Amended Customs Tariff.

6. Resin, colophony, pitch, and similar products, free under the reciprocity arrangements. Duty of $0.45 per 100 kil. under the Amended Customs Tariff.

7. Clay, in bricks, tiles, etc., free under the reciprocity arrangements. Duty of $0.30 and $1.50, according to circumstances, under the Amended Customs Tariff.

8. Iron, cast, in pigs, free under the reciprocity arrangements. Duty of $0.10 per 100 kil. under the Amended Customs Tariff.

9. Steel, free under the reciprocity arrangements. Duty of $0.34 per 100 kil. under the Amended Customs Tariff.

10. Iron, cast, in pipes, beams, rafters, and similar articles for the construction of buildings and in ordinary manufacturing, free under the reciprocity arrangements. Duty from $0.50 to $1.40, according to circumstances, per 100 kil. under the Amended Customs Tariff.

11. Iron, wrought in bars, rails and bars of all kinds, plates, beams, rafters, and other similar articles for construction of buildings, free under the reciprocity arrangements. Duty of $0.80 per 100 kil. under the Amended Customs Tariff.

12. Steel, do., do., free under the reciprocity arrangements. Duty of $1.40 under the Amended Customs Tariff.

13. Iron, wrought, in wire, nails, screws, nuts and pipes, free under the reciprocity arrangements. Duty from $0.15 up per 100 kil. under the Amended Customs Tariff.

14. Steel, do., do., free under the reciprocity arrangements. Duty of $0.15 up per 100 kil. under the Amended Customs Tariff.

15. Iron, wrought, and steel, in ordinary manufactures, and wire cloth unmanufactured, free under the reciprocity arrangements. Duty from $0.05 to $1.80 per 100 kil., according to circumstances, under the Amended Customs Tariff.

16. Starch, free under the reciprocity arrangements. Duty of $1.40 per 100 kil. under the Amended Customs Tariff.

17. Maizena, and all other alimentary products of corn, except corn meal, free under the reciprocity arrangements. Duty of $0.30 per 100 kil. under the Amended Customs Tariff.

18. Fresh fruits, apples, etc., free under the reciprocity arrangements. Duty of $0.36 per 100 kil. under the Amended Customs Tariff.

19. Fruits, dried and preserved. Free under the reciprocity arrangements. Duty of $0.90 under the Amended Customs Tariff.

20. Beans, fresh and dried. Free under the reciprocity ar-

rangements. Duty of $0.66 per 100 kil. under the Amended Customs Tariff.

21. Peas. Free under the reciprocity arrangements. Duty of $0.66 per 100 kil. under the Amended Customs Tariff.

22. Onions. Free under the reciprocity arrangements. Duty of $0.42 per 100 kil. under the Amended Customs Tariff.

23. Potatoes. Free under the reciprocity arrangements. Duty of $0.30 under the Amended Customs Tariff.

23. Hay and straw for forage. Free under the reciprocity arrangements. Duty of 15 per cent *ad valorem* under the Amended Customs Tariff.

24. Tan bark. Free under the reciprocity arrangements. Duty of $0.25 per 100 kil. under the Amended Customs Tariff.

25. Tallow and other animal greases, melted or crude, unmanufactured. Free under the reciprocity arrangements. Duty of $1.20 per 100 kil. under the Amended Customs Tariff.

26. Books and pamphlets, printed, bound and unbound. Free under the reciprocity arrangements. Duty of $1.25 per 100 kil. under the Amended Customs Tariff.

27. Woods of all kinds, in trunks, or logs, joists, rafters, planks, beams, boards and round or cylindric masts, although cut, planed, tongued and grooved, including flooring. Free under the reciprocity arrangements. Duty of $4.75 to $12.00 under the Amended Customs Tariff.

28. Wooden cooperage, including staves, headings and wooden hoops. Free under the reciprocity arrangements. Duty of $0.80 on the staves and of $0.36 on the wooden hoops under the Amended Customs Tariff.

29. Woods, ordinary, manufactured into doors, frames, windows and shutters, without paint or varnish, and WOODEN HOUSES, unmounted, without paint or varnish. Free under reciprocity arrangements. Duty of $0.16 per 100 kil. under the Amended Customs Tariff.

30. Implements, utensils and tools for agriculture, the arts and mechanical trades, and machines and apparatus, agricul-

tural, motive, industrial and scientific, of all classes and materials, and loose pieces for the same, including wagons, carts, and hand carts for ordinary roads and agriculture, free under the reciprocity arrangements. Only plows, hoes, hatchets, machetes, and cane knives for agricultural purposes and other implements not machinery are free under the Amended Customs Tariff. All others are subject to a duty either of $5.00 per 100 kil. in some cases, or of 10 per cent *ad valorem* in some other cases.

31. Meats in brine, salted and smoked, including bacon, hams and meats preserved in can, in lard, or by extraction of air. Free under the reciprocity arrangements. Duty under the Amended Customs Tariff $1.25 on beef, $1.25 on pork, $2.40 on bacon per 100 kil.

32. Lard and butter. Free under the reciprocity arrangements. Duty of $1.70 and $4.20 respectively per 100 kil. under the Amended Customs Tariff.

33. Hams. Free under the reciprocity arrangements. Duty of $3.30 per 100 kil. under the Amended Customs Tariff.

34. Meats preserved in cans. Free under the reciprocity arrangements, Duty of $3 00 per 100 kil. under the Amended Customs Tariff.

35. Salmon in cans. Free under the reciprocity arrangements. Duty of $5.00 per 100 kil. under the Amended Customs Tariff.

36. Oats, barley, rye and buckwheat. Free under the reciprocity arrangements. Duty of $0.24, $0.30 and $0.24 respectively per 100 kil. under the Amended Customs Tariff.

37. Oat meal. Free under the reciprocity arrangements. Duty of $0.72 under the Amended Customs Tariff.

NOTE NO. 9.

ON THE CONSTITUTION OF THE LEGISLATIVE COUNCIL.

The Puerto Rican Commissioners had the honor to ask the President, in their letter of the 19th instant, page 17 of the present pamphlet, to establish in Puerto Rico a system of government identical to the one he recently promised the Philipinos for their own archipelago, that is, a Civil government, vested in a Civil Governor, and a Legislative Council. To facilitate the consummation of this plan in Puerto Rico, the Puerto Rican Commissioners presented an alternative, consisting of the idea that the Executive authority should be vested, if so deemed best, as it is in the District of Columbia, in a triumvirate, since in that way one of the Commissioners, at least, might be without difficulty a native Puerto Rican.

The Puerto Rican Commissioners suggested also a plan for the election of the members of the Legislative Council; but, subsequently, they have been advised by their constituents that the plan they suggested may be found to be liable, when put in operation, to serious drawbacks.

The municipal councils of the island have been constituted, almost in their totality, with elements belonging to only one of the local political parties which divide the opinion in the island; and this being the case, if the election of the members of the Legislative Council is to be made, as suggested, by the Municipal Board, or Ayuntamientos, so constituted, the risk will be run that only one shade of public opinion will be represented in that Body.

Puerto Rican newspapers of such well-deserved prominence as "La Nueva Era," "La Patria" and "La Estrella Solitaria" have expressed their apprehensions in this respect. "La Nueva Era" has said: "The election of a Legislative Council by the Municipal Board is subject to objections. * * * The said Board consists, in the majority of cases, of people belonging all

of them to one political party (the paper means the pro-Spanish party created in Puerto Rico by the Spanish Premier, Señor Sagasta), because *the suggestions made by General Henry to the effect that all opinions should be equally represented were not duly followed.*"

The Puerto Rican Commissioners, giving, as they ought to do, respectful consideration to all proper suggestions coming from their constituents, have deemed it proper to set them forth in this note.

In view of the statement that the plan of Gen. Henry was not followed, it might be good that instructions should be sent to the new Governor of the island to the effect of preventing the Municipal Boards from being formed of individuals belonging all to one party, thus removing, to the benefit of all in Puerto Rico, such a baleful source of irritation and discord.

NOTE NO. 10.

ON THE CREATION OF A PUERTO RICAN HALL OF RECORDS.

Article VIII of the Treaty of Peace between the United States and Spain, concluded at Paris, December 10th, 1898, and proclaimed at Washington April 11th, 1899, reads as follows:

"The aforesaid relinquishment, or cession, as the case may be, includes all documents exclusively referring to the sovereignty relinquished, or ceded, that may exist in the Archives of the Peninsula. Where any document in such Archives only in part relate to said sovereignty a copy of such part will be furnished whenever it shall be requested."

In view of this provision the Puerto Rican Commissioners called the President's attention to the advisability of establishing in Puerto Rico a Puerto Rican Hall of Records, where the documents referred to and others should be properly preserved.

The Puerto Rican Commissioners are not unaware that a matter of this kind properly belongs to the local government of Puerto Rico, when established upon a truly American base of civil autonomy, but they feel, nevertheless, that it is proper for them, even at this stage of the Puerto Rican case, to say something about it.

The intrinsic importance of the subject; the little interest, if any, which was felt for the proper preservation of certain kinds of public documents during the Spanish rule in Puerto Rico; and the necessity which the Treaty of Peace imposes upon the Government of the United States of intervening in the delivery by the Spanish Government of all documents concerning the sovereignty of Puerto Rico to be found in the Spanish archives, seem to the Puerto Rican Commissioners to be sufficient reasons to authorize them to submit at once this point to the consideration of the United States Government, and suggest that proper steps should now be taken for the establishment of a Puerto Rican Hall of Records, the expenses to be incurred thereby to be properly met by the revenues of the island.

The documents to be preserved belong to two classes, namely: documents now scattered throughout Puerto Rico, and documents relating to Puerto Rico, either wholly or in part, kept more or less carelessly in the Spanish Archives.

The documents belonging to the first class are to be found in several public offices at the capital of the island, as, for instance, the office of the Secretary of the Governor-General, the offices of the extinguished *Diputación Provincial*, the office of the Intendant, the Superior Court or *Audiencia*, the offices of the City Council, the Bishop's Palace, etc., etc. They are also to be found in the rest of the island in the offices of the respective City Councils, the Parishes, the Custom Houses, and all other official centers.

Proper care was never taken with these papers. The interest, if any, which they inspired was always mediocre. Many

of them which were kept at the Clergymen's House at Ponce were destroyed by fire. Some others kept in some other places were damaged and often lost in frequent removals from a building to another. Some others, kept against the provision of the law in frame houses, perished by fire. In a great number of cases, especially in the archives of the City Councils of the island, and even in those of the highest centers of the government, the destructive book worm of the tropics and other insects were given full liberty as well as ample opportunities to do havoc. Except in a few cases no keeper of archives was appointed; and when he was appointed his work became reduced in general to only filing the papers. No systematic arrangement, no classification, not even a proper inventory of the papers on file, was ever made.

The importance of these documents, and the interest which must be felt for them, to the benefit of the present as well as of the future generations of the Puerto Rican people, do not need to be explained. They form the base of all statistical work. No serious study of the development of the Puerto Rican cities, of the good or bad result of certain laws, of the criminality of the island, or of other social and political matters, can ever be made without them. They are essential for the proper knowledge of the medical topography, and of the ethnical instrumentalities which have caused one race to have supremacy over others, thus teaching the manner to solve intelligently the problems of immigration, and decide with perfect knowledge of the case what measures must be taken to promote the development of one race or check that of another. They are indeed so important, in all respects, for the good government of the country, as to cause all good Puerto Ricans to look at them with respect.

It is necessary, therefore, that all these documents and papers be collected together and kept and preserved at some Central Hall of Records and Archives, where they may be protected against all causes of destruction, and where they, after being

properly classified and indexed, may be easily consulted by the student.

As to the documents which are now in the possession of the Spanish Government, and which, under the treaty, are to be delivered to the Government of the United States, it must be said from the outset that they are a real treasure. The Puerto Rican Commissioners, believing as they do that man does not live of bread alone, consider that by calling the attention of the Government of the United States to this particular feature of the treaty of peace, they do something conducive to promote the intellectual development and cultivation of the people whom they have the honor to represent.

The Spanish Archives are not brilliant for the manner in which they are kept. Owing to the frequent disturbances which have occurred in Spain, the safety of the papers and documents of those archives has often been endangered. The case is on record that when Napoleon, in the early part of this century, invaded the Spanish territory, the archives were ransacked by his order and a multitude of documents were carried to France. He wanted to found in Paris a great European Hall of Records, and the rich and celebrated Archives of Spain were forced to contribute to the success of his gigantic idea. In addition to the loss of the papers thus taken away, the Spanish Archives were then subjected to outrages of other kinds. It is well known that the soldiers of a regiment of French cavalry, quartered at Simancas, at the same building where the Archives were kept, scattered on the floor of the different rooms occupied by them as many packages of papers and files of documents as were required to form soft beds for themselves and their horses.

It is also well known that not very long ago files of exceedingly interesting papers were found in some barrels filled with rubbish which had been placed in the moat of the Castle of Simancas, and that in the house of a lawyer at Valladolid some other documents belonging to the Archives were also found.

Some years after the surrender of Granada, a boy of that city offered for sale to a traveller an old manuscript paper he could not read, but to which he gave some importance. The traveller bought it for five dollars, and then presented it to the Government. That paper was the original instrument of the surrender of Granada, signed by Queen Isabella and the Moorish King.

A multitude of documents of the Archives of the Indies at Seville have been lost in other ways. The log book of Columbus in his second voyage has disappeared from there, and no man knows where it is now. In spite of all the courtesies which were extended by Spain to Washington Irving, he had to encounter, as it is well known, the greatest difficulties when visiting the Archives in search of documents and papers for the preparation of his works. Not long ago, in the course of an interesting historical controversy between Spanish Americanists and Mr. Harrisse, a citizen of the United States of America, it was found out that certain documents which would have decided the point, or points, in dispute had disappeared from the Archives.

The documents relating to America which are to be found in Spain are now kept either at the Archives of the Indies in Seville, the Archives of Simancas at Valladolid, the King's Private Library, the Monastery of the Escurial, the Academy of History, and private offices and libraries of Spanish noblemen, who have been ordered repeatedly, by "command of the King," to turn these papers over to the Government officials, which they never did. A large and interesting collection of papers of this nature, old and recent, relating to the colonization of Puerto Rico, Cuba and the Philippine Islands, can be found also at the Colonial Department at Madrid.

If Spain complies with the provisions of Article VIII of the Treaty of Peace, liberally and righteously, a real treasure will be handed by her to the United States. But it is any how in the interest of the United States to become informed, before

hand, as fully as possible, of the nature of the documents which must be delivered to them, and of the places wherein they are kept. Many of these documents are important not only for the islands newly acquired or controlled by the United States, but for the United States themselves, because they illustrate the period of the discovery of the New World. It is to be expected that the Washington Government should entrust the mission of getting these documents to persons well posted as to the facts of the conquest, acquainted with the Spanish archives and everything relating to them, and fully conversant with the Spanish language.

The Puerto Rican Commissioners know that among these papers there are many of great importance for Puerto Rico. If they were kept at Puerto Rico they would contribute largely to the progress of the country in an intellectual standpoint. They are needed to write well the history of the country, to make a thorough study of its colonization and settlement, to correct errors transmitted without opposition from generation to generation, to teach the future Puerto Ricans how to appreciate the efforts and the learning of the Puerto Ricans now living and of those who have passed away. Puerto Rico must be given the custody of all the papers, whether originals or copies, which relate to it.

Upon these grounds the petition of the Puerto Rican Commissioners to the President of the United States, that he may be pleased to cause a Hall of Records to be established in Puerto Rico, is founded. They confidently expect that their petition will not be disregarded.

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NOTE NO. 11.

ON THE POWERS OF THE PRESIDENT.

People unfriendly to Puerto Rico, anxious to prolong, if not to perpetuate, the abnormal condition of things which now afflicts Puerto Rico, express their astonishment that the Puerto Rican Commissioners, and with them the Puerto Rican people without distinction of rank or station in life, should be asking the President what they, the critics, say the President has no power to give. If attention is to be paid to these critics the action of the Puerto Rican Commissioners is little short of madness, and is founded exclusively on their ignorance of the Constitution and laws of the United States. How can the President, they say, grant civil government to Puerto Rico? How can he possibly order that the commercial relations between Puerto Rico and the rest of the United States should be at once placed upon the basis of absolute free trade? All of this, they contend, belongs to Congress, and Congress alone has the power to act upon these matters.

If such statements were correct, the position of the President in regard to Puerto Rico would be unjustifiable. Grant, for the sake of the argument, that he has no power to appoint a Civil Governor for Puerto Rico; upon what ground will then be based his authority to appoint, as he had done not less than three times, a Military Governor?

If he has no authority to do what he is asked in regard to the civil administration of government and justice in the island, upon what ground has he based his authority to order the municipal legislation of the island to be amended, to create courts of justice, to establish civil marriage and divorce, and to introduce the numerous "reforms" which have taken place in Puerto Rico during the last nine months?

If he has no power to establish free trade between Puerto Rico and the rest of the United States, from where has he derived the power of burdening that trade with customs duties?

If he has no power to deal with Puerto Rico and the Puerto Rican people to their benefit, what is the source of his power to deal with them to their injury?

But there is nothing of the kind. The arguments of the opponents to the measures which the Puerto Rican Commissioners have been constantly urging are fallacious and whimsical.

Even in his capacity of Commander-in-Chief of the Army and Navy of the United States, the President can, if he wishes, do as requested by the Puerto Rican Commissioners.

California was conquered by the United States in 1846. The Supreme Court of the United States said: "The conquest of Upper California by the arms of the United States BECAME COMPLETE JULY 7, 1846." (*Stearns* vs. *United States*, 6 Wall. 589). But it was not ceded to the United States until the 2nd of February, 1848, when the treaty of peace between the United States and Mexico was signed at Guadalupe Hidalgo. It was admitted as a State into the American Union on September 9th, 1850.

During the interval between July 7, 1846, the date of the completion of the conquest, and the 2nd of February, 1848, the date of the cession, California was militarily occupied by the United States, and subject to the authority of the President as Commander-in-Chief of the Army and Navy of the United States;—and this was very natural, and very proper too, because during that period there was a state of war between the United States and Mexico.

And what was, nevertheless, the first act of President Polk as such Commander-in-Chief of the Army and Navy of the United States in regard to conquered California? What did he order his military and naval subordinates in that section of the country, namely, the military and naval commanders of the American forces in California, to do without delay?

Look at the official records and they will answer.

President Polk ordered his military and naval subordinates

"to exercise the belligerent rights of a conqueror and to form A CIVIL GOVERNMENT for the conquered country." (*Cross* vs. *Harrison*, 16 Howard, 190).

What can prevent President McKinley from ordering the same thing to the military offiers in command of Puerto Rico?

Are now the Puerto Ricans less apt for civil government than were the Mexicans in 1847?

But there is something still more to the point in this case.

Read with care the decision of the Supreme Court of the United States in the case above cited (*Cross* vs. *Harrison*, 16 Howard, 190) and you will find that Justice Curtis, who delivered the opinion of the Court, thought it proper to quote in full the dispatch of Mr. Buchanan, Secretary of State, of October 7th, 1848, to Mr. Voorhees.

Carefully read this dispatch and you will see, as Justice Curtis said, what was "the view taken by the Executive branch of the Government of the existing condition of things in California,"—a condition absolutely identical to the present condition of things in Puerto Rico.

"* * * the condition of the people of California is anomalous. * * * By the conclusion of the Treaty of Peace THE MILITARY GOVERNMENT which was established over them, under the laws of war as recognized by the practice of all civilized nations, HAS CEASED TO DERIVE ITS AUTHORITY FROM THIS SOURCE OF POWER." (Why is it that the military government ceased in California *ipso facto* by the treaty of peace, and continues nevertheless to exist in Puerto Rico in spite of the treaty of peace?)

Mr. Buchanan then explained that after this cessation of the military government, California had to have some government until Congress should finally act. But he added that this government could not "of course exercise any power inconsistent with the provisions of the Constitution of the United States, which is the supreme law of the land. *For this reason* NO IMPORT DUTIES CAN BE LEVIED IN CALIFORNIA ON AR-

TICLES THE GROWTH, PRODUCE, OR MANUFACTURE OF THE UNITED STATES, AND NO SUCH DUTIES CAN BE IMPOSED IN ANY OTHER PART OF OUR UNION ON THE PRODUCTIONS OF CALIFORNIA."

And why is it that articles grown, produced and manufactured in the United States COULD NOT be burdened with CUSTOMS DUTIES in California, and no productions of California COULD BE burdened with such duties in the United States, because by the treaty of cession California had become a part of the United States,—and articles produced, grown or manufactured in the United States CAN BE, and are, burdened with customs duties in Puerto Rico, and Puerto Rican productions CAN BE, and are, also burdened in the United States, notwithstanding the fact that Puerto Rico, by the treaty of peace, has become a part of the United States?

How is it that the constitutional view of the subject, officially expressed by the Executive branch of this Government, results in contradiction with itself, and proclaims one thing in 1848 as the indubitable law of the land, when the head of the Government was Mr. James Polk, and a thing diametically opposed in 1898 and 1899, when the head of the Government is Mr. William McKinley?

Is the Government of the United States a government of persons subject to the individual opinions of the officials who happen to be at its head, or a government of laws and principles eternal and unchangeable, far above individual opinions?

The critics of the Puerto Rican Commissioners will do well to study this matter, and if they do it, they will be satisfied that the President has, not only the power, but the constitutional duty, as explained by Mr. Buchanan on October 7th, 1848, to undo all that has been done unconstitutionally in the Island of Puerto Rico after the treaty of peace, which made that island a part and parcel of the American Territory.

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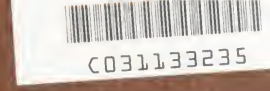
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